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BULLETIN No. 9

Amendments to the Consolidated Statutes

ENACTED BY THE
GENERAL ASSEMBLY OF NORTH CAROLINA
REGULAR SESSION 1931

Compiled by
H. M. LONDON
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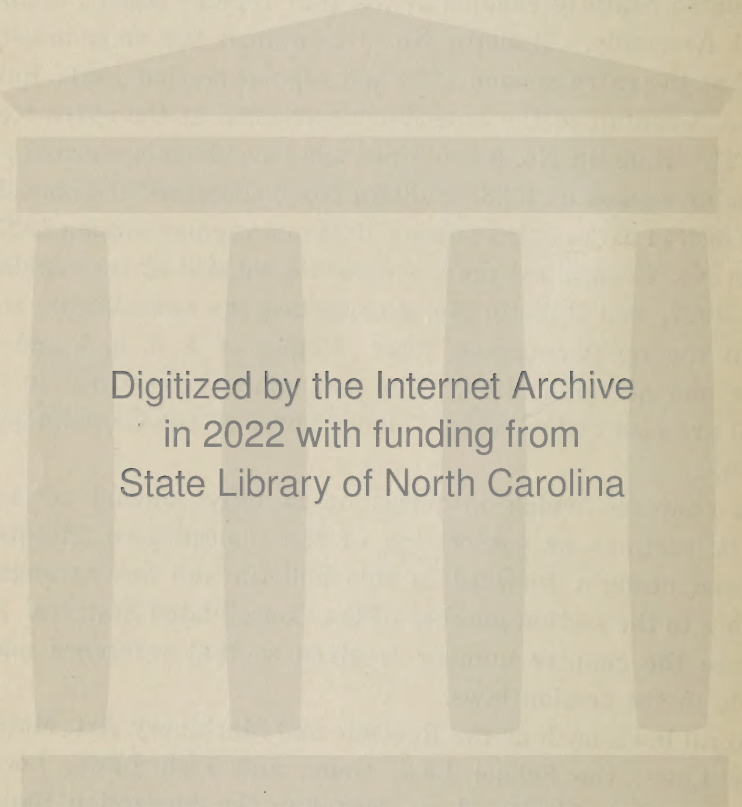
This bulletin is issued in compliance with Section 6147 of the Consolidated Statutes, which requires the Legislative Reference Librarian to keep the compilations of the Public Laws of the State revised to date. It contains the amendments to the Consolidated Statutes enacted at the 1931 regular session of the General Assembly. Bulletin No. 3 contained the amendments enacted at the extra session 1920 and regular session 1921. Bulletin No. 4 contained the amendments enacted at the extra session 1921. Bulletin No. 5 contained the amendments enacted at the regular session of 1923. Bulletin No. 6 contained the amendments enacted at the extra session 1924 and regular session 1925. Bulletin No. 7 contained the amendments enacted at the regular session 1927, and Bulletin No. 8 contained the amendments enacted at the regular session 1929. Copies of 4, 5, 6, 7 and 8 may be had on application. The amendments contained in 3, 4 and 5 are also embraced in Volume Three of the Consolidated Statutes.

The chapters which in terms or in effect amend certain chapters, sections or subsections of the Consolidated Statutes have been brought forward in this bulletin and are arranged according to the section number of the Consolidated Statutes. In each case the chapter number is given so that reference may be made to the session laws.

Several laws, such as the Revenue and Machinery Act, Motor Vehicle Laws, the School Law, Game and Fish Laws, Local Government Act, Election Law, including the Australian Ballot Law, Road Law, Workmen's Compensation Act, Banking Laws, and others, are not brought forward here since they have been published in pamphlet form and may be had free upon application by persons interested in them.

H. M. LONDON,
Legislative Reference Librarian.

October 1, 1931.



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Amendments to the Consolidated Statutes

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CHAPTER I ADMINISTRATION

1. Add at end of section: "Provided, that in all cases where the Clerk of the Superior Court is interested in an estate, the Judge of the Superior Court resident in the district or the Judge of the Superior Court holding the courts of the county by regular or special assignment shall have jurisdiction to take proof of wills and grant letters testamentary, letters of administration with the will annexed and letters of administration in cases of intestacy, to audit and approve the accounts of executors and administrators, to make orders and to do any and all things in connection with the administration of estates which the Clerk of the Superior Court might or could have done, had he not been interested in the estate."

1931, c. 165.

16. Add at end of section: "Where more than one executor is appointed in any last will and testament duly probated in any court of this State, and one or more of such executors shall have qualified before the Clerk of such Court, and the other executor or executors shall have failed within thirty (30) days thereafter to qualify or shall have renounced in writing, then the qualifying executor or executors shall be clothed with all the powers, rights and duties, and be subject to all the obligations imposed upon all of said executors, in and by the terms of said will and the laws of this State, in like manner as if the non-qualifying executor or executors had not been named in said will."

1931, c. 183.

45. In line 7, after the word "county" in both instances in which the word occurs, insert the words: "or in the city or town in which the deceased resided at the time of death."

1931, c. 64.

65(a). Vol. III. In line 15 as amended, after the word "Mecklenburg" insert the word "Wake."

1931, c. 21.

92. Add new article as follows: "Article 13-A. In all cases where sales have been made by administrators of deceased persons of real estate, in good faith and upon a valuable consideration to obtain assets to pay debts of the estate and deeds executed by such administrators to the purchaser, who paid the purchase price thereof, and no action taken by the heirs of such deceased person to annul such sale by litigation or otherwise, such sale be and the same is hereby validated.

"In all cases where sales have been made under the circumstances narrated in the preceding section, and deeds have been made by administrators of such deceased persons to the purchaser that the recitals contained in such deeds; that the sale was made under order or license of the court for the purpose of obtaining assets to pay debts of the estate, that such recitals shall be presumed to be *prima facie* correct, and that the proceeds of sale of said land have been applied to the payment of the necessary indebtedness of said estate and the cost of administration thereof: *Provided, however*, that this act shall not apply to any sale of land made in which the administrator of such deceased persons shall have been directly or indirectly the purchaser thereof and nothing herein contained shall prevent such sale from being impeached for fraud.

"This act shall only apply to sales by administrators made prior to January first, nineteen hundred, and shall not apply to pending litigation nor to any pending or unsettled administration or estate."

1931, c. 146.

CHAPTER IV ATTORNEYS AT LAW

198. Provisions of section not applicable to Fred W. Ashcraft, R. B. Dawes and Carl Massey appointed Justices of the Peace in 1931, except in cases with which they may have been connected as Justices of the Peace.

1931, c. 321, ss. 2, 3.

215. Add following section a new article as follows: "Article 6. It shall be unlawful for any corporation or any person or association of persons, except members of the Bar of the State of North Carolina admitted and licensed to practice as attorneys at law, to appear as attorneys or counsellors-at-law in any action or proceeding in any court in this State or before any judicial body or the North Carolina Industrial Commission; to maintain, conduct, or defend the same, except in his own behalf as a party thereto; or, by word, sign, letter, or advertisement, to hold out himself, or themselves, as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counselling in law or acting as attorney or counsellor-at-law, or in furnishing the services of a lawyer or lawyers; and it shall be unlawful for any person or association of persons except members of the Bar, for a fee or any consideration, to give legal advice or counsel, perform for or furnish

to another legal services, or, for or without a fee or any consideration to prepare directly or through another for another person, firm or corporation, any will or testamentary disposition, or instrument of trust serving purposes similar to those of a will, except life insurance trusts, or, for a fee or any consideration, to organize corporations or prepare for another person, firm or corporation, any other legal document.

"Provided, that nothing herein shall prohibit any person from conferring with a person, firm or corporation with respect to the creation of a fiduciary relationship, or from co-operating with a licensed attorney of another in preparing any such legal document, if such attorney maintains his own place of business and is not an officer of a corporation represented by such person; or from drawing a will for another in an emergency wherein the imminence of death leaves insufficient time to have the same drawn and its execution supervised by a licensed attorney at law.

"It shall be unlawful for any corporation to practice or appear as an attorney for any person other than itself in any court in this State, or before any judicial body or the North Carolina Industrial Commission; or hold itself out to the public or advertise as being entitled to practice law; and no corporation shall organize corporations, or draw agreements, or other legal documents not relating to its lawful business, or draw wills, or practice law, or give legal advice not relating to its lawful business; or hold itself out in any manner as being entitled to do any of the foregoing acts, by or through any person orally or by advertisement, letter or circular: Provided, that the foregoing shall not prevent a corporation from employing an attorney in regard to its own affairs or in any litigation to which it may be a party.

"Provided, further, that the above provisions of this act shall not be construed to prohibit a person or corporation acting in a fiduciary capacity from transacting the necessary clerical business incidental to the routine or usual administration of estates, trusts, guardianships, or other similar fiduciary capacities, such as offering wills for probate in common form, securing authority to expend principal as guardian or trustee, filing accounts, preparing and filing tax returns of every nature, and other such administrative acts, where no special compensation is charged for such service and no compensation whatever is charged or received other than the usual commissions allowed by the court for administering the trust, or provided for by the instrument creating the trust or other fiduciary relationship.

"And provided, further, that nothing herein shall prohibit any insurance company from causing to be defended, or prosecuted, or from offering to cause to be defended, through lawyers of its own selection, the insureds in policies issued or to be issued by it, in accordance with the terms of such policies; and shall not prohibit one such licensed attorney at law from acting for several common carriers and/or other corporations and/or associations or any of its subsidiaries pursuant to arrangement between said corporations and/or associations.

"It shall be unlawful to exact, charge, or receive any attorney's fee for the foreclosure of any mortgage under power of sale, unless the foreclosure is conducted by a licensed attorney at law of North Carolina, and unless the full amount charged as attorney's fee is actually paid to and received and retained by such attorney, without being directly or indirectly shared with or rebated to any one else, and it shall be unlawful for any such attorney to make any showing that he has received such a fee unless he has received the same, or to share with or rebate to any other person, firm, or corporation such fee or any part thereof received by him; but such attorney may divide such fee with another licensed attorney at law maintaining his own place of business and not an officer or employee of the foreclosing party, if such attorney has assisted in performing the services for which the fee is paid, or resides in a place other than that where the foreclosure proceedings are conducted, and has forwarded the case to the attorney conducting such foreclosure.

"The solicitor of any of the Superior Courts shall, upon the application of any member of the Bar, or of any bar association, of the State of North Carolina, bring such action in the name of the State as may be proper to enjoin any such person, corporation, or association of persons who it is alleged are violating the provisions of this act, and it shall be the duty of the solicitors of this State to indict any person, corporation, or association of persons upon the receipt of information of the violation of the provisions of this act.

"Any person, corporation, or association of persons violating the provisions of this act shall be guilty of a misdemeanor and punished by a fine or imprisonment, or both, in the discretion of the court.

"Provided, that this act shall not apply to any Law School or Law Schools conducting a Legal Clinic and receiving as their clientele only those persons unable financially to compensate for legal advice or services rendered."

1931, c. 137, c. 347.

CHAPTER XII

CIVIL PROCEDURE

439. Add new sub-section as follows: "4. Against a corporation, or the holder of a certificate or duplicate certificate of stock in the corporation, on account of any dividend, either a cash or stock dividend, paid or allotted by the corporation to the holder of the certificate or duplicate certificate of stock in the corporation."

1931, c. 169.

442. Add new sub-section as follows: "3. The forfeiture of all interest for usury."

1931, c. 231.

444. Add new sub-section as follows: "Upon a contract, transfer, assignment, power of attorney or other instrument transferring or affecting unearned salaries or wages, or future earnings, or any interest therein, whether said instrument be under seal or not under seal. The above period of limitation shall commence from the date of the execution of such instrument: *Provided, however*, that the period of limitations for any action upon such instrument executed prior to the ratification of this act shall be six months from and after its ratification."

1931, c. 168.

455. Now reads: "All persons having an interest in the subject of the action and in obtaining the relief demanded may be joined as plaintiffs, either jointly, severally, or in the alternative, except as otherwise provided. If, upon the application of any party, it shall appear that such joinder may embarrass or delay the trial, the court may order separate trials or make such other order as may be expedient."
1931, c. 344, s. 1.

456. Now reads: "All persons may be made defendants, jointly, severally, or in the alternative, who have or claim an interest in the controversy adverse to the plaintiff, or who are necessary parties to a complete determination or settlement of the questions involved. In an action to recover the possession of real estate, the landlord and tenant may be joined as defendants. Any person claiming title or right of possession to real estate may be made a party plaintiff or defendant, as the case requires, in such action. If the plaintiff is in doubt as to the persons from whom he is entitled to redress, he may join two or more defendants, to determine which is liable."
1931, c. 344, s. 2.

473. Now reads: "473. *Additional jurors from other counties instead of removal.* Upon suggestion made as provided by the second section preceding, or on his own motion, the presiding judge, instead of making order of removal may cause as many jurors as he deems necessary to be summoned from any county in the same judicial district or in an adjoining district by the sheriff or other proper officer thereof, to attend, at such time as the judge designates, and serve as jurors in said action. The judge may direct the required number of names to be drawn from the jury box in said county in such manner as he may direct, and a list of the same to be delivered to the sheriff or other proper officer of the county, who shall at once summon the jurors so drawn to appear at the time and place specified in the order. In case a jury is not obtained from those so summoned the judge may, in like manner, from time to time, order additional jurors summoned from any county in the same judicial district or in an adjoining district, or from the county where the trial is being held, until a jury is obtained. These jurors are subject to challenge for cause as other jurors, but not for non-residence in the county of trial, or service within two years, or not being freeholders, and all jurors so summoned are entitled to compensation for mileage and time, to be paid by the county to which they are summoned, at the rate now provided by law for regular jurors in the county of their residence."
1931, c. 308.

480. Add at end of section: "*Provided, however,* that in case of tax suits brought under the provisions of Consolidated Statutes, section eight thousand thirty-seven, as amended, an alias or pluries summons may be sued out at any time within two years after the issuance of the original summons, whether any intervening alias or pluries summons has heretofore been issued or not, and after the issuance of such alias or pluries summons, the chain of summonses may be kept up as in any other action."
1931, c. 264.

541. Add new section: "541(a). When any question shall arise as to the law of the United States, or of any other state or territory of the United States, or of the District of Columbia, or of any foreign country, the court shall take notice of such law in the same manner as if the question arose under the law of this State.
"Does not apply in any cause of action which has accrued prior to the ratification of this act."
1931, c. 30.

625. Following section add new article as follows: "Article 24(a). *Declaratory Judgments. Scope.* Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations, whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

"*Power of construction.* Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise, and obtain a declaration of rights, status, or other legal relations thereunder. A contract may be construed either before or after there has been a breach thereof.

"*Who may apply for a declaration.* Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or *cestui que trust*, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto: (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others; or (b) to direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or (c) to determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

"*Enumeration not exclusive.* The enumeration in sections two and three does not limit or restrict the exercise of the general powers conferred in section one in any proceedings where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

"*Discretion of court.* The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

"*Review.* All orders, judgments and decrees under this act may be reviewed as other orders, judgments and decrees.

"Supplemental relief. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

"Parties. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceedings. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general of the State shall also be served with a copy of the proceeding and be entitled to be heard.

"Jury trial. When a proceeding under this act involves the determination of an issue of fact, such issue may be determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

"What judge may hear the proceeding. Proceedings under this act shall stand for trial at a term of court, as in other civil actions. If no issues of fact are raised, or if such issues are raised and the parties waive a jury trial, by agreement of the parties the proceedings may be heard before any judge of the Superior Court. If in such case the parties do not agree upon a judge for the hearing, then upon motion of the plaintiff the proceeding may be heard by the resident judge of the district, or the judge holding the courts of the district, or by any judge holding a term of the Superior Court within the district. Such motion shall be in writing, with ten days' notice to the defendant, and the judge so designated shall fix a time and place for the hearing and notify the parties. Upon notice given, the Clerk of the Superior Court in which the action is pending shall forward the papers in the proceeding to the judge designated. The hearing by the judge shall be governed by the practice for hearing in other civil actions before a judge without a jury. The term 'Superior Court Judge' used in this section shall include emergency and special judges of the Superior Court.

"Costs. In any proceeding under this act the court may make such award of costs as may seem equitable and just.

"Construction. This act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations, and it is to be liberally construed and administered.

"Words construed. The word 'person' wherever used in this act, shall be construed to mean any person, partnership, joint stock company, unincorporated association, or society, or municipal corporation or other corporation of any character whatsoever.

"Provisions severable. The several sections and provisions of this act, except sections one and two, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the act invalid or inoperative.

"Uniformity of interpretation. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with Federal laws and regulations on the subject of declaratory judgments and decrees."

1931, c. 102.

672. Now reads: "Executions shall be dated as of the day on which they were issued, and shall be returnable to the court from which they were issued, not less than forty nor more than ninety days from said date, and no executions against property shall issue until the end of the term during which judgment was rendered."

1931, c. 172.

690. Now reads: "All real property sold under execution shall be sold at the court house door of the county in which all or a part of the property is situated on the first Monday in any month or during the first three days of any term of the Superior Court of said county. That all sales of real property sold under order of court shall be sold at the court house door in the county in which all or any part of the property is situated on any Monday in any month or during the first three days of any term of the Superior Court of said county, unless in the order directing such sale some other place and time are designated and then it shall be sold as directed in such order on any day except Sunday after advertising as required by law. That all sales heretofore made under execution or by order of court on any day other than the first Monday in any month are hereby validated, ratified and confirmed, provided this act shall not affect pending legislation."

1931, c. 23.

730. In line three, between the word "sheriff" and the word "or" insert the words "a Deputy Sheriff designated by the Sheriff, and who shall be twenty-one years of age or over."

Applies only to the Counties of Guilford, Mecklenburg, Ashe, Jackson, Alamance, Martin, Brunswick, Davidson, Sampson, Davie, Randolph, Lenoir, Durham, Wilson, Cumberland, Scotland, New Hanover, Vance, Rowan, Henderson, Cabarrus, Pitt, Rockingham, Chowan, Gates, Perquimans, Pasquotank, Camden, Currituck, Hertford, Edgecombe, Harnett, Forsyth, Iredell, Lincoln, Bertie, Caldwell, Wayne, Halifax, Buncombe, Johnston and Moore.

1931, c. 58.

859. Add new section: "859(a). The resident judge or the judge assigned to hold any of the courts in any judicial district of North Carolina shall have power and authority to order a sale of any property, real or personal, in the hands of a receiver duly and regularly appointed by the Superior Court of North Carolina upon such terms as appear to be to the best interests of the creditors affected by said receivership.

"Any sale made by a receiver may be confirmed outside of the county in which said action is pending, either by the resident judge or the judge assigned to hold any of the courts of the district in which said sale is made, upon proof of written notice to each creditor who has filed his claim with said receiver of at least ten days prior to the date of confirmation. The

said notice shall specify the time and place when application for confirmation shall be made, and an affidavit of the receiver showing that notice was mailed to each creditor at his last known post office address shall be sufficient proof of notice to said creditors.

"All receiver's sales heretofore made where orders were made and confirmation decreed or either outside the county in which said actions were pending by a resident judge or the judge assigned to hold the courts of the district be and they are hereby validated, ratified and confirmed."

1931, c. 123.

CHAPTER XIII CLERK OF SUPERIOR COURT

927. In line 5, strike out the word "fifteen" and insert the word "twenty."
1931, c. 170.

938. Add two new sub-sections as follows:

"19. In all special proceedings in which a plat, map or blue-print shall be filed as a part of the papers, the Clerk of the Superior Court may have a photostatic copy of said plat, map or blue-print made on a sheet of the same size as the leaves in the book in which the special proceeding is recorded, and when made, shall place said photostatic copy in said book at the end of the report of the commissioners or other document referring to said plat, map or blue-print.

"The Clerk of the Superior Court shall be allowed a fee to be fixed by the County Commissioners not exceeding the sum of five dollars to be taxed in the bill of costs, which fee shall cover the cost of making said photostatic copy and all services of the clerk in connection therewith."

1931, c. 171.

"20. It shall be the duty of the Clerk of the Superior Court in each county of the State on or before the first day of May of each year to certify to the Commissioner of Revenue of the State of North Carolina the names and addresses of all Attorneys-at-Law located within the county and engaged in the practice of law."

1931, c. 290.

956. In line 3, between the word "authority" and the word "clerks" insert the words "upon ten days' written notice."
1931, c. 156.

CHAPTER XX CORONERS

1020. As amended in 1924, c. 65. Add a new sub-section: "11. The right to perform an autopsy upon the dead body of a human being shall be limited to cases specially provided by statute or by direction or will of the deceased; cases where a coroner or the majority of a coroner's jury deem it necessary upon an inquest to have such an autopsy; and cases where the husband or wife or one of the next of kin or nearest known relative, or other person charged by law with the duty of burial, in the order named and as known shall authorize such examination or autopsy for the purpose of ascertaining the cause of death."

1931, c. 152.

CHAPTER XXI CORPORATION COMMISSION

1037. Add at end of section:

"**1307(b).** *System of Accounts.* The Corporation Commission may establish a system of accounts to be kept by the public utilities, under its jurisdiction, or may classify said public utilities and establish a system of accounts for each class, and prescribe the manner in which such accounts shall be kept.

"**1037(c).** *Reports.* The Corporation Commission shall at least once every twelve months require any public utility to file annual reports in such form and of such content as the Commission may require and special reports concerning any matter about which the Commission is authorized to inquire or to keep itself informed, or which it is authorized to enforce. All reports shall be under oath when required by the Commission.

"**1037(d).** *Investigation.* The Corporation Commission may, on its own motion and whenever it may be necessary in the performance of its duties, investigate and examine the condition and management of public utilities or any particular utility. In conducting such investigation the Commission may proceed either with or without a hearing as it may deem best, but it shall make no order without affording the parties affected thereby a hearing.

"If after such an investigation, or investigation and hearing, the Commission, in its discretion, is of the opinion that the public interest shall be more greatly conserved by an appraisal of any properties in question, the investigation of any particular construction, the audit of any accounts or books, the investigation of any contracts, or the practices, contracts, or other relations between the utility in question and any holding or finance agency with which such public utility may be affiliated, it shall be the duty of the Commission to report its findings and recommendations to the Governor and Council of State with request for an allotment from the Emergency and Contingent Fund to defray such expenses which may be granted as provided by law for expenditures from such fund or may be denied.

"**1037(e).** *Certificate of Convenience and Necessity.* No person, or corporation, their lessees, trustees or receivers shall hereafter begin the construction or operation of any public utility plant or system or acquire ownership or control of, either directly or indirectly, without

first obtaining from the Corporation Commission a certificate that public convenience and necessity requires, or will require, such construction, acquisition, or operation: *Provided*, that this section shall not apply to new construction in progress at the time of the ratification of this act, nor to construction into territory contiguous to that already occupied and not receiving similar service from another utility, not to construction in the ordinary conduct of business.

"The Corporation Commission is hereby empowered to make rules governing the application for, and the issuance of such certificates of public convenience and necessity.

"1037(f). *Contracts*. All public service corporations when requested by the Corporation Commission shall submit copies of contracts made with any person, firm or corporation classed as a holding, managing or operating company or selling service of any kind, and the Corporation Commission shall have the right to disapprove any such contract, after hearing, if in its judgment it is found to be unjust or unreasonable, and designed, or entered into for the purpose of concealing, abstracting, or dissipating the net earnings of the public service corporation receiving such services."

1931, c. 455.

CHAPTER XXII CORPORATIONS

1138 and 1140. Chapter 256, 1929, repealed. This chapter amended chapters 28 and 29 which added the word "public service" in sections 1138 and 1140, these chapters being amended by chapter 256, 1929, which provided that said act should apply only to instruments executed after the ratification of the acts. (Both acts referred to were ratified February 13, 1929, and not "1919.")

1931, c. 238.

1167(d). Vol. III as amended. Lines one and two now read: "Any corporation whether organized under a special act of the Legislature or otherwise, may."

1931, c. 59.

1190. In line two, after the words "United States" insert the following: "or when it shall be made to appear to a judge of the Superior Court that all of the assets of the corporation of whatever kind or character have been lost to the stockholders by reason of foreclosure, assignment, or execution under judgment, and that the corporation is therefore unable to conduct the business for which it was organized."

In line five, after the word "bankruptcy" insert the following: "foreclosure, assignment, or sale under execution."

In line seven, after the word "adjudication" insert the words "foreclosure, assignment or final sale under execution."

1931, c. 310.

1209. Add at end of sub-section 2: "Where real estate has been conveyed by mortgage deed, or deed of trust, to any corporation in this State authorized to accept such conveyance for the purpose of securing the notes or bonds of the grantor, and such corporation thereafter shall be placed in the hands of a receiver or trustee in properly instituted court proceedings, then such receiver or trustee under and pursuant to the orders and the decrees of the said court or other court of competent jurisdiction may sell such real property pursuant to the orders and the decrees of the said court or may foreclose and sell such real property as provided in such mortgage deed, or deed of trust, pursuant to the orders and decrees of such court.

"All such sales shall be made as directed by the court in the cause in which said receiver is appointed or the said trustee elected, and for the satisfaction and settlement of such notes and bonds secured by such mortgage deed or deed of trust or in such other actions for the sales of the said real property as the said receiver or trustee may institute and all pursuant to the orders and decrees of the court having jurisdiction therein.

"All sales of real property heretofore made by such receiver or trustee of and pursuant to the orders of the courts of competent jurisdiction in such cases, be and the same are hereby validated."

Act does not apply to litigation pending at time of ratification.

1931, c. 265.

1224(a-f). As amended by c. 77, 1925. Add the following: "*Provided*, that the only fees that shall be collected from said merging corporations shall be office or filing fees and charter fees upon any increase in the authorized capital stock of the merged corporations in excess of that provided for in the charters of said merging corporations when the authorized capital stock of said merging corporations shall be added."

1931, c. 209.

CHAPTER XXIII

COSTS

1260. In line four, after the word "Greene" insert the word "Guilford."

1931, c. 135.

In line three, after the word "Ashe" insert the word "Avery."

1931, c. 187.

1282. At the end of the second paragraph insert the following: "In Wake County when on the trial of a criminal action the costs, or any part thereof, are taxed against the county, the witness fees of an all-time salaried officer or an all-time salaried employee of the county of Wake or the city of Raleigh, shall not be taxed against the county in the bill of costs."

1931, c. 201.

1288. Now reads: "The party convicted in a criminal action or proceeding, within the jurisdiction of a Justice of the Peace, before any Justice, mayor, county or Recorder's Court, shall always be adjudged to pay the costs, and if the party charged be acquitted, the complainant shall be adjudged to pay the costs, and may be imprisoned for the non-payment thereof, if the Justice, mayor, county or Recorder's Court shall adjudge that the prosecution was frivolous or malicious. But in no action or proceeding in which a Justice of the Peace has final jurisdiction, commenced or tried in a court of a Justice of the Peace, mayor, county or Recorder's Court shall the county be liable to pay any costs. Any defendants or prosecuting witness shall have the right of appeal to the Superior Court."

1931, c. 252.

CHAPTER XXIV

COUNTIES AND COUNTY COMMISSIONERS

1293. In line three, after the word "Buncombe" insert the word "Brunswick."

Add at end of section: "In Brunswick County only one member of the Board of Commissioners shall be from any one township."

1931, c. 68.

1297. Vol. III. Add at end of sub-sections 17 and 31 the following: "All prisoners sentenced to jail for any term less than sixty days may, as a part of such sentence, by the court in which such prisoners are tried and convicted, be sentenced to work at hard labor on the public streets of any city or town, the county farm, or any other public works of the county wherein such prisoners are tried and convicted."

1931, c. 302.

1331. In lines nine and ten strike out the words "January the twenty-seventh, one thousand nine hundred and five" and insert the words "December first, one thousand nine hundred and thirty."

1931, c. 445.

1342. Add a new sub-section: "6. No person coming into the State of North Carolina from another State shall be deemed to have a settlement in this State for the purposes of this section, until he or she has resided continuously three years within the State, unless at the time of so migrating he or she was able to maintain himself in such sense as that he or she would not be deemed a pauper within the meaning of article eight, chapter twenty-four of the Consolidated Statutes, one thousand nine hundred and nineteen."

1931, c. 120.

CHAPTER XVII

COURTS

1435(a). Vol. III. Not affected by chapter 29, 1931.

1931, c. 29, s. 8.

1435(d)-1435(j). No change except as to date of appointment and expiration of term.

1931, c. 29.

1443. Vol. III. **FIRST DISTRICT—BEAUFORT.** In line three strike out the word "fifth" and insert the word "fourth."

1931, c. 87.

See also c. 7; c. 11.

CHOWAN. In line one strike out the word "Fourth" and insert the word "Fifth."

1931, c. 87.

PERQUIMANS. In line one strike out the words "Sixth Monday before the first Monday in March."

1931, c. 6.

THIRD DISTRICT—BERTIE. Now reads: "Third Monday before the first Monday in March, to continue for one week for the trial of both criminal and civil cases; ninth Monday after the first Monday in March, to continue for two weeks for the trial of both criminal and civil cases; first Monday before the first Monday in September, to continue for one week, for the trial of both criminal and civil cases; tenth Monday after the first Monday in September to continue for two weeks, for the trial of both criminal and civil cases."

1931, c. 192; c. 247.

HERTFORD. In line 6, section 2, c. 217, 1929, strike out the words "and for the trial of civil cases only" and insert the words "for the trial of civil cases and only such criminals as are confined in the common jail or otherwise imprisoned."

1931, c. 200.

FOURTH DISTRICT—LEE. In lines two and three strike out the words "Ninth Monday after the first Monday in March; second Monday after the first Monday in September."

1931, c. 86.

HARNETT. Now reads: "Eighth Monday before the first Monday in March, one week for the trial of criminal cases only; fourth Monday before the first Monday in March to continue for two weeks, for the trial of civil cases only; fourth Monday after the first Monday in March, to continue for two weeks for the trial of civil cases only; ninth Monday after the first Monday in March for the trial of civil cases only; eleventh Monday after the first Monday in March, one week, for the trial of criminal cases only; fourteenth Monday

after the first Monday in March, two weeks for the trial of civil cases only; first Monday in September for criminal cases only; second Monday after the first Monday in September for the trial of civil cases only; fourth Monday after the first Monday in September to continue for two weeks, civil cases only; tenth Monday after the first Monday in September to continue for two weeks, for the trial of criminal cases only."

1931, c. 147.

FIFTH DISTRICT—PITT. In line six, between the word "eleventh" and the word "cases" insert the words "ninth Monday after the first Monday in March to continue for one week for the trial of civil cases"; add at end the words "eleventh Monday after the first Monday in September to continue for one week for the trial of civil cases." Governor to appoint judge to hold these terms.

1931, c. 94.

SIXTH DISTRICT—DUPLIN. Add at end: "twelfth Monday after the first Monday in March, one week for the trial of criminal and civil cases; thirteenth Monday after the first Monday in March, one week for civil cases only."

1931, c. 271, s. 1.

LENOIR. In line one strike out the word "eleventh" and insert the word "sixteenth." Add at end: "tenth Monday after the first Monday in March, two weeks, for the trial of civil cases only; third Monday after the first Monday in September, one week, for civil cases only."

1931, ss. 2, 3.

ONSLow. Jail cases may be tried at the July term of court.

1931, c. 341.

EIGHTH DISTRICT—COLUMBUS. Add at end: "sixteenth Monday after the first Monday in March, to continue one week, for the trial of criminal cases."

1931, c. 246.

NINTH DISTRICT—BLADEN. "Eighth Monday before the first Monday in March for the trial of civil cases, and the trial of criminal cases where bills have been found, and cases on appeal from the Recorder's Court and courts of Justices of the Peace; the first Monday after the first Monday in March for the trial of criminal cases only; the eighth Monday after the first Monday in March for the trial of civil cases only; the fourth Monday before the first Monday in September for the trial of civil cases only; the second Monday after the first Monday in September for the trial of criminal cases only. Said courts to continue for one week unless the business is sooner disposed of, and grand juries to be summoned only for the March and October terms of court: *Provided*, that if the necessity should arise, and the County Commissioners of Bladen County should so determine and order, a grand jury may be summoned by said commissioners for the January terms of court; and such grand jury so summoned shall have, perform and exercise all of the powers and duties of regular grand juries herein provided for the March and October terms of court. At any term for the trial of criminal cases, civil cases may be tried by consent."

CUMBERLAND. "Seventh Monday before the first Monday in March; first Monday in March (judge to be assigned); thirteenth Monday after the first Monday in March; first Monday before the first Monday in September; eleventh Monday after the first Monday in September, each for criminal cases only. Third Monday before the first Monday in March; third Monday after the first Monday in March; ninth Monday after the first Monday in March; third Monday after the first Monday in September; seventh Monday after the first Monday in September, each to continue for two weeks, for civil cases only. At all criminal terms of court civil trials which do not require a jury may be heard by consent of the parties, and motions may be heard upon ten days' notice to the adverse party prior to said term."

HOKE. "Sixth Monday before the first Monday in March; seventh Monday after the first Monday in March; second Monday before the first Monday in September, to continue for one week; and tenth Monday after the first Monday in September."

ROBESON. "Fifth Monday before the first Monday in March; two weeks for trial of criminal cases; first Monday before the first Monday in March, for trial of civil cases, two weeks; fifth Monday after the first Monday in March, one week for trial of civil cases; sixth Monday after the first Monday in March, one week for the trial of criminal cases in which the defendants are in jail; eleventh Monday after the first Monday in March, two weeks for the trial of civil cases; fourteenth Monday after the first Monday in March, one week for the trial of civil cases; fifteenth Monday after the first Monday in March for the trial of criminal cases in which the defendants are in jail; eighth Monday before the first Monday in September, one week for the trial of civil cases; third Monday before the first Monday in September, one week for the trial of criminal cases; first Monday in September, two weeks for the trial of civil cases; fifth Monday after the first Monday in September, one week for the trial of criminal cases; sixth Monday after the first Monday in September, one week for the trial of civil cases; ninth Monday after the first Monday in September, one week for the trial of criminal cases; thirteenth Monday after the first Monday in September, two weeks for the trial of civil cases; fifteenth Monday after the first Monday in September, one week for the trial of criminal cases. At all criminal terms all motions and divorce cases may be heard, and jury trials in all civil cases may be heard by consent. The grand jury will not convene at any criminal term of said courts after the January term of each year, unless the Solicitor of the Ninth Judicial District shall prior to said court notify the sheriff of Robeson County to assemble the grand jury for the next succeeding term."

TENTH DISTRICT—ALAMANCE. Now reads: "First Monday before the first Monday in March, tenth Monday after the first Monday in March, third Monday before the first Monday in September and twelfth Monday after the first Monday in September, each for one week, for the trial of criminal cases only; fifth Monday before the first Monday in March, fourth Monday after the first Monday in March, each for one week, twelfth Monday after the first Monday in March, two weeks, fifth Monday before the first Monday in September, one week, first Monday in September, one week, first Monday in September and tenth Monday after the first Monday in September, each for two weeks, all for the trial of civil cases only." 1931, c. 228.

DURHAM. Now reads: "Second Monday before the first Monday in March, third Monday after the first Monday in March, eleventh Monday after the first Monday in March, sixteenth Monday after the first Monday in March, seventh Monday before the first Monday in September, first Monday in September, fifth Monday after the first Monday in September, and the thirteenth Monday after the first Monday in September, each for the trial of criminal cases only; eighth Monday before the first Monday in March (for a term of three weeks), first Monday before the first Monday in March, four weeks, seventh Monday after the first Monday in March, three weeks, twelfth Monday after the first Monday in March, three weeks, first Monday after the first Monday in September, three weeks, seventh Monday after the first Monday in September, three weeks." 1931, c. 224; c. 419.

ELEVENTH DISTRICT—SURRY. In lines one and two strike out the words "and first Monday before the first Monday in September" and insert the words "second Monday in July," also in line one insert the words "first Monday in February, two weeks, for criminal and civil cases." 1931, c. 251.

TWELFTH DISTRICT—DAVIDSON. Add at end: "First Monday in April, to continue for two weeks, for the trial of civil cases only; first Monday in October, to continue for two weeks, for the trial of civil cases only." 1931, c. 114.

THIRTEENTH DISTRICT—RICHMOND. Now reads: "Second Monday after the first Monday in March to continue for one week; twelfth Monday after the first Monday in March to continue for one week; fifteenth Monday after the first Monday in March to continue for one week; seventh Monday before the first Monday in September to continue for one week; first Monday in September to continue for one week; eleventh Monday after the first Monday in September to continue for one week, all for the trial of civil cases." 1931, c. 82.

FOURTEENTH DISTRICT—GASTON. Now reads: "Seventh Monday before the first Monday in March; first Monday after the first Monday in March; seventh Monday after the first Monday in March; thirteenth Monday after the first Monday in March; sixth Monday before the first Monday in September; first Monday after the first Monday in September; seventh Monday after the first Monday in September; twelfth Monday after the first Monday in September, each to continue for one week, for the trial of criminal cases exclusively; sixth Monday before the first Monday in March; second Monday after the first Monday in March; eleventh Monday after the first Monday in March; fifth Monday before the first Monday in September; second Monday after the first Monday in September; thirteenth Monday after the first Monday in September, each to continue for two weeks, for the trial of civil cases exclusively: *Provided*, that where there is a conflict in any of the above courts with the terms of court prescribed for Mecklenburg County, a special or emergency judge shall be assigned by the Governor to hold said court in Gaston County, and such special or emergency judge shall have all the powers conferred upon any resident or presiding judge." 1931, c. 242.

SIXTEENTH DISTRICT—BURKE. Now reads: "Second Monday before the first Monday in March, to continue for one week, for the trial of civil and criminal cases; first Monday after the first Monday in March, to continue for two weeks, for the trial of civil cases only; thirteenth Monday after the first Monday in March, to continue for three weeks, for the trial of civil and criminal cases; fourth Monday before the first Monday in September, to continue for two weeks, for the trial of civil and criminal cases; third Monday after the first Monday in September, to continue for three weeks, for the trial of civil cases only; fourteenth Monday after the first Monday in September, to continue for two weeks, for the trial of civil and criminal cases: *Provided, however*, that the Board of Commissioners of Burke County, in any year, upon the written petition of a majority of the practicing attorneys resident in said county, may, by resolution duly adopted, dispense with and abrogate the holding of that term of said court which by the provisions of this act commences on the thirteenth Monday after the first Monday in March." 1931, c. 343.

CLEVELAND. In line two before the word "eighth" insert the words "second Monday after the first Monday in September, one week for the trial of civil cases only." 1931, c. 240.

WATAUGA. Added to the sixteenth district and now reads: "Fifth Monday after the first Monday in March, to continue for two weeks; second Monday after the first Monday in September, to continue for one week." 1931, c. 424.

SEVENTEENTH DISTRICT—AVERY. Now reads: "Seventh Monday after the first Monday in March, for two weeks, the first week for the trial of criminal cases only, and the second week for civil cases only; ninth Monday before the first Monday in September, three

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weeks for civil cases only; sixth Monday after the first Monday in September, for two weeks, the first week for the trial of criminal cases only and the second week for civil cases only." 1931, c. 84.

NINETEENTH DISTRICT—MADISON. Chapter 205, 1929, amending this paragraph, repealed, thus abolishing the January term of court. 1931, c. 25.

1444. Add at end of first paragraph: "Also motions for confirmation or rejection of Referees' reports may be heard upon ten days' notice and judgment entered on said reports." 1931, c. 394.

1461. Resident judge of sixth judicial district empowered to appoint a court stenographer for one or more or all of the counties in the district. 1931, c. 154.

1461. Following this section add a new article as follows: "Article 8(a). A commission to be known as the Commission for the Improvement of the Laws is hereby established.

"Said commission shall consist of the attorney-general, the chairman of each of the committees on Judiciary of the Senate and the House of Representatives of the General Assembly, and the following additional members to be appointed by the Governor on the basis of their interest in and competency for the study of law reform: two members who shall be appointed from the Justices of the Supreme Court and/or the Judges of the Superior Courts; two members who shall be active practitioners in the trial and appellate courts; three members who shall be appointed from the faculties of law in the various universities in this State; and two members, not attorneys at law, who shall be men of proven ability in other occupations.

"The attorney-general shall be a member of the commission during such time as he shall serve as attorney-general. The respective chairmen of the committees on judiciary shall hold office as members of the commission from their appointment as chairmen during the session of the General Assembly at which they were appointed and continuously thereafter until their successors as chairmen shall be appointed by the presiding officers of the next General Assembly, which successors shall in like manner become *ex officio* members of said commission. The other members of said commission shall serve from the dates of their appointment until the conclusion of the term of office of the Governor appointing them, or until their successors shall be appointed and qualified.

"The Governor shall designate one of the members of such commission as the chairman and another as the executive secretary of the commission.

"The Governor shall have power to fill vacancies among the unofficial members occasioned by death, resignation or otherwise.

"It shall be the duty of such commission to meet twice annually, or more often at the call of the chairman, to consider proposals for the betterment of the law, both substantive and procedural, to conduct such research and investigation as may be appropriate therefor, and to recommend to the General Assembly such specific changes in the existing law as it deems expedient.

"In advance of each regular session of the General Assembly, the commission shall prepare a report and shall embody the recommendation of the commission with drafts of proposed bills, and the reasons for the same, and copies of such report shall be sent to each member of the General Assembly not less than thirty days before the beginning of such session.

"The members of the commission shall serve without compensation."

1931, c. 98.

1464. Add at end of section: "In Gastonia Township, in the County of Gaston, there shall be elected five (5) Justices of the Peace; in South Point Township, in the County of Gaston, there shall be elected four (4) Justices of the Peace; in River Bend Township, in Dallas Township, in Cherryville Township, and in Crowders Mountain Township, in the County of Gaston, there shall be elected in each township three (3) Justices of the Peace." 1931, c. 256.

1555. Sections 1555, 1572, 1592, 1593, 1594 and 1595 do not apply to the Recorder's Court of Burke County.

In all trials of criminal actions in the Recorder's Court of Burke County, upon demand for a trial by jury by the defendant or the Solicitor representing the State, the Recorder shall transfer said trial to the Superior Court of Burke County, and the defendant shall execute a new bond in such amount as named by the Recorder for his appearance at the next term of the Superior Court of Burke County held for the trial of criminal cases.

1931, c. 335.

1608. Vol. III. Strike out the word "Halifax" wherever it occurs in said section.

Upon the establishment of a County Recorder's Court in the County of Halifax under the general law it shall be the duty of the Clerk of the Superior Court of said county to transfer from the docket of the Superior Court of said county to the docket of the Recorder's Court for trial all causes pending in the Superior Court in the jurisdiction of said Recorder's Court. 1931, c. 3.

In line two strike out the word "fifteenth" and in line three strike out the word "sixteenth."

1931, c. 19, s. 2.

1608(f)-1608(dd). Vol. III. These sections and all amendments repealed insofar as the same relate to Transylvania County.

1931, c. 1.

Amended as to Wilson County.

1931, c. 61.

1608(f). In line two between the word "state" and the word "there" insert the words "except Caswell County."

The General County Court for Caswell County is abolished.
1931, c. 17.

1608(j). Vol. III. Add at the end of section the following: "The Clerk of said Court or any deputy thereof, upon application and the making of proper affidavit, as provided by law, shall have power and authority to issue any criminal warrant or warrants in said Court and make the same returnable before the Judge thereof, at any time or times designated for the trial of criminal cases."

1931, c. 233, s. 1.

1608(s). Vol. III. In section 24(f), chapter 85, Special 1924, strike out the words "Nor shall it apply to the counties of the sixteenth (16th)."

1931, c. 19, s. 1.

1608(v). Vol. III. Add at end: "Provided the Judge of said Court may in his discretion, if and when a sufficient number of cases are at issue in which jury trial has been demanded to warrant such action, cause a jury of not less than eighteen, not more than twenty-four men to be drawn for a certain week of a term, setting such cases for trial during such time, and in such cases the juries shall be drawn in the same manner as now provided for the drawing of juries for the Superior Court."

1931, c. 233, s. 2.

Above two amendments apply to all district county courts created by the 1931 General Assembly.

Do not apply to the counties of New Hanover, Caldwell, Henderson, Ashe, Hoke, Lincoln, Wayne, Wilkes, Nash, Edgecombe, Alexander, Rockingham, Duplin, Union, Alleghany, Halifax, Alamance, Clay, Yancey, Dare, Wake, Hertford, Jackson, Mecklenburg, Craven, Vance, Person, Robeson, Johnston, Yadkin, Davidson, Haywood, Pitt, Tyrrell, Hyde, Watauga, Durham, Scotland, Forsyth and Camden.

1608(dd). Vol. III. Add a new article as follows: "Article 25½. *District County Courts.* 1608(dd) 1. In any two or more contiguous and adjoining counties of any judicial district of this State there may be established, under the general powers and authority contained in sub-chapter five, articles twenty-four and twenty-five, and the several sections of each article, except as herein otherwise provided, a court of civil and criminal jurisdiction, maintained pursuant to this sub-chapter and the said articles twenty-four and twenty-five, not inconsistent herewith, a court of record, to be known as and designated a district county court, and containing all the authority, jurisdiction, rights, powers and duties, compensations and fees, as provided in the articles aforesaid, except as herein otherwise provided."

"1608(dd) 2. *Judge of court; election; oath of office and salary.* The court shall be presided over by a judge, who may be a licensed attorney at law, and at the time of his election he shall be a qualified elector in one of the counties composing the said district county court."

"The first judge of said court, upon its establishment as hereinafter provided, shall be elected by the several boards of commissioners of the counties establishing the said district courts, each board being entitled to one vote to be cast in accordance with the majority vote of each board, at any joint meeting of said boards of commissioners, as hereinafter provided, within sixty days after the establishment, and he shall hold his office until January first, following the next general election of county officers, and until his successor is elected and qualified. Any vacancy arising in the office of judge of said court shall be filled by the several boards of commissioners of the counties establishing the said district court, in joint meeting assembled, which shall be called by the chairman of the board of commissioners of the county in which such judge resided at the time of his death or removal, or resignation."

"At the joint meeting of said boards of commissioners when an election of the judge of said court is made, the said commissioners shall also fix the salary of said judge, which salary together with the salary of the prosecuting attorney hereinafter provided for shall be paid from the costs taxed and collected in the trial of all actions in said court to which costs provided for there shall be added a trial fee of five dollars and if there be a deficiency in the payment of said salaries from said costs as herein provided for, the said deficiency shall be proportionately paid by the several counties composing the said district county court, in proportion as the population of each county shall bear to the whole of the counties creating said court, on the basis of the one thousand nine hundred thirty census."

"The judge shall reside in one of the counties of said district; he shall take the oath of office prescribed in section one thousand six hundred eight (g); hold his terms of court in the county courthouse in each county of his district, and shall not be permitted to practice law during his tenure of office in any of the courts of the State."

"His successor shall be nominated and elected by a vote of the qualified electors of the several counties embraced within the jurisdiction of said district at the next general election before the expiration of the term of office and when other county officers are elected, in the same manner, and as provided by law for the nomination and election of judges of the Superior Court, and he shall hold his office for a term of four years beginning January first next following his election, and until his successor is elected and qualified; except, however, in instances of an appointment to fill a vacancy, in which case he shall hold through the unexpired term of his predecessor in office, and until his successor is elected and qualified."

"1608(dd) 2½. That in any county where a county court has been heretofore created and now exists under and by virtue of article twenty-four, sub-chapter five of chapter twenty-seven, where it is desired to change said court from a county court to a district county court, under the provisions of this article, its board of commissioners may, by proper resolution, reciting in brief the reasons therefor, abolish the said county court and establish for said county, in the manner provided in this article, a district county court; and in such event, the judge and solicitor of the said county court shall thereupon be named and elected as judge and solicitor of said district county court until the expiration of the time for which they were elected as officers of the said county court, and until their successors are duly elected and qualified."

"1608(dd) 3. *When court to be held.* The court shall be open for the transaction of business and trial of cases at least once a week in each county in each month in districts composed of four counties, or less, and at least once in every eight weeks in districts composed of more than four counties, which week or the time of holding said court for each of said counties shall be determined and declared by said joint meeting of said commissioners upon recommendation of the bars of the several counties composing said district, or majority of the resident lawyers of said counties, and certified by said commissioners to each Superior Court Clerk of the several counties within the district.

"1608(dd) 4. *Prosecuting attorneys.* There shall be a prosecuting attorney of the said district court, known officially as the prosecuting attorney, and he shall appear for the State and prosecute all criminal actions in said county courts of his district; and for his services he shall be paid such salary as may be fixed by the boards of county commissioners of the several counties composing the district.

The said prosecuting attorney shall be elected by the respective boards of commissioners in the same manner as hereinbefore provided for the election of a judge thereof. He shall hold his office until January first next following the first general election for county officers, and at the said first general election following his election by the said boards of commissioners, and thereafter at each subsequent general election for county officers, he shall be nominated and elected by the duly qualified electors of the counties composing said district, under the general laws governing the nomination and election of district officers, or solicitors of the several judicial districts.

"Any vacancy arising in the said office of prosecuting attorney shall be filled by the board of commissioners of the counties composing the district, in the same manner as hereinbefore provided for the election of the judge thereof; and the compensation or salary of the said prosecuting attorney shall be paid by the several counties composing the district in the same proportion, or basis, as provided for payment of the salary of the judge, and shall be payable monthly out of the funds of the counties composing said district court. If requested to do so by the judge, the prosecuting attorney shall represent the county in prosecuting any appeal of a criminal action from said district court in the Superior Court.

"1608(dd) 5. *Clerks; duties and compensation.* The several Clerks of the Superior Court in the several counties of said district court shall *ex-officio* be clerk of said district court of each and all terms held within the respective counties of each, and subject to all the rights, duties and liabilities provided for in sections one thousand six hundred eight (j) and one thousand six hundred eight (l) of the Consolidated Statutes.

"1608(dd) 6. *Sheriffs; duties and compensation.* The several sheriffs of the several counties of said district court, or their duly constituted deputies, shall attend upon each term of this court within their respective counties, and be subject to and possess the same power and authority and additional compensation as authorized under section one thousand six hundred eight (K) of the Consolidated Statutes.

"1608(dd) 7. *Jurisdiction.* The said county district courts shall have the same criminal and civil jurisdiction as that of the general county court, and as fixed and defined in sections one thousand six hundred eight (M) and one thousand six hundred eight (N) of the Consolidated Statutes.

"1608(dd) 8. *How established or abolished.* The general county district court; herein provided for, shall be established and abolished as provided in this article.

"1608(dd) 9. *Procedure to establish.* Upon a petition signed by a majority of the resident licensed attorneys at law, of not less than two counties of the State within any one judicial district, and duly verified to that effect, addressed to and filed with the Governor, praying the establishment of a general county district court for any two or more of the counties named in the petition, the Governor shall transmit a copy of the petition to each of the respective boards of county commissioners, and at the same time he shall issue an order to each of said boards directing a joint meeting of the same at the courthouse of one of the said counties at such time and place as he may designate in said order.

"The several boards of commissioners, or any two or more of them, if in their judgment the said court shall be established, shall, at such meeting, or at such later meeting within thirty days thereafter to which they may adjourn, pass a resolution reciting the petition for said court, and declaring the same to be established in and for each of the respective counties, thus approving and voting for the said resolution.

"A majority vote of two or more of the several boards of commissioners participating in the said proceedings for the passage of the said resolution shall be sufficient for the establishment of said court, and it shall thereupon become an established court in and for the counties voting for the resolution; and thereupon a certified copy of the minutes of said meeting, the said petition and resolution, executed by any one of the commissioners present, attested by one member of each of the several boards participating in the said proceedings and voting for said court, shall be transmitted to the clerk of the Superior Court of the several counties participating and adopting the resolution, and also recorded in the minutes of said commissioners' meetings of the several counties composing the district.

"1608(dd) 10. *Practice and procedure.* That practice and procedure of the said county district courts shall be the same as that of the general county court, and as prescribed in section one thousand six hundred eight (t), one thousand six hundred eight (u), one thousand six hundred eight (v), one thousand six hundred eight (w), one thousand six hundred eight (x), one thousand six hundred eight (y), one thousand six hundred eight (z), one thousand six hundred eight (aa), one thousand six hundred eight (bb), one thousand six hundred eight (cc), and one thousand six hundred eight (dd) of the Consolidated Statutes, appearing therein as article twenty-five of chapter twenty-seven, relating to courts.

"1608(dd) 11. *Abolishing the court.* Whenever in the opinion of the board of commissioners of any county in which a court has been established under the provisions of this article, the conditions prevailing in such county are such as to no longer require the said court, such board of county commissioners may, by proper resolution, reciting in brief the reasons therefor, duly certify the same to the chairman of the board of commissioners of each other county composing, forming and creating the said district court; whereupon the respective boards of commissioners of the several counties embraced in said district court, shall meet at the courthouse of the county in which the judge resides on the third Monday of the month next following the receipt of the certified copy of the resolution aforesaid, or the subsequent

and next following Monday first and abolish the said county court for the county having adopted the resolution aforesaid, which shall go into effect as to the county abolishing said court at the end of the term to which the judge has been elected. If, upon the abolition of the said county court, as to the county adopting the resolution aforesaid, as many as two other counties forming, composing and making up the said district court, desire the same continued in full force and effect within their respective counties the said commissioners shall readjust the salary and compensation of the judge and prosecuting attorney of said court on the basis hereinbefore provided to take effect at the end of the term to which the said judge has been elected, and the said county court shall continue in full force and effect within the other counties remaining, forming and composing the same, with no impairment of the rights, powers, duties, and authorities conferred by this article. But said court may, at any time, at a meeting held pursuant to a resolution, certified as aforesaid, subject to the provisions hereinbefore recited, abolish the said court in each, all or any of the counties in the districts; and in such event the Clerk of Court shall transfer all cases pending therein to the Superior Court of his respective county."

1931, c. 70.

1608(dd). Vol. III. Add a new article as follows: "Article 25½-A. *Criminal County Courts.* In each county in the State there may be established a court of criminal jurisdiction, which shall be a court of record, and it shall be maintained pursuant to the provisions of this act, and said court shall be called the County Criminal Court, and shall have jurisdiction over the entire county in which said court shall be established.

"This act shall not apply to the counties of Alexander, Alleghany, Ashe, Beaufort, Bertie, Bladen, Brunswick, Buncombe, Cabarrus, Camden, Caswell, Catawba, Chowan, Clay, Cleveland, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Franklin, Greene, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Jackson, Johnston, Lincoln, Macon, Madison, Pasquotank, Perquimans, Pitt, Randolph, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Vance, Wake, Warren, Watauga, Wayne, Wilkes, Yadkin, Yancey, and Richmond.

1931, c. 89; c. 270.

CHAPTER XXVIII

DEBTOR AND CREDITOR

1653. Following this section add new article as follows: "Article 6. It shall be unlawful for any individual, corporation, or firm or other association of persons, to solicit of any creditor any claim of such creditor in order that such individual, corporation, firm or association may represent such creditor or present or vote such claim, in any bankruptcy or insolvency proceeding, or in any action or proceeding for or growing out of the appointment of a receiver, or in any matter involving an assignment for the benefit of creditors.

"It shall be unlawful for any corporation, or any firm or other association of persons, or for any individual other than an attorney duly licensed to practice law, to appear for another in any bankruptcy or insolvency proceeding, or in any action or proceeding for or growing out of the appointment of a receiver, or in any matter involving an assignment for the benefit of creditors, or to present or vote any claim of another, whether under an assignment or transfer of such claim or in any other manner, in any of the actions, proceedings or matters hereinabove set out.

"Any individual, corporation, or firm or other association of persons violating any provision of this act shall be guilty of a misdemeanor."

1931, c. 208.

CHAPTER XXX

DIVORCE AND ALIMONY

1659. Vol. III. Add at the end of sub-section 4: "Marriages may be dissolved and the parties thereto divorced from the bonds of matrimony, on application of either party, if and when there has been a separation of husband and wife, either under deed of separation or otherwise, and they have lived separate and apart for five years, and no children have been born to the marriage, and the plaintiff in the suit for divorce has resided in the State for that period."

1931, c. 72.

Add new sub-section as follows: "5. If any person shall commit the abominable and detestable crime against nature, with mankind, or beast."

1931, c. 397.

CHAPTER XXXI

DOGS

1673-1684. Graham County exempted from the operation of these sections.
1931, c. 35.

1681. Add at end of section: "No part of any taxes paid on dogs and no part of any taxes collected in Wilson County shall be liable or used to pay for depredation, damage or injury to persons or property by dogs."

1931, c. 37.

Add at end of section another paragraph as follows: "Provided, further, that the Board of County Commissioners may adjust and settle claim or claims for such damages without submitting the question to a jury; and: *Provided, further,* that in no event shall the owner

be paid an amount greater than the tax valuation of the property for the then current tax year as shown by the tax list of such owner."

Applies only to the counties of McDowell, Forsyth, Orange, Randolph, Watauga and Avery.

1931, c. 283.

1684(a). Vol. III. In line two strike out the word "Haywood."
1931, c. 27.

CHAPTER XXXVI

FENCES AND STOCK LAW

1664. Vol. III. Add Rockingham to the counties to which section applies.
1931, c. 434.

Add Stokes to the counties to which section applies.
1931, c. 22.

CHAPTER XXXVII

FISH AND FISHERIES

1667. Add at end of section: "The United States Commissioner of Fisheries and his duly authorized agents are hereby granted the right to conduct fish cultural operations and scientific investigations in the several waters of North Carolina and to erect such fish hatcheries and fish propagating plants as are duly authorized by the Congress of the United States at such times as may be considered necessary and proper by said commissioner and his agents, any law of the State to the contrary notwithstanding."
1931, c. 268.

1891. Vol. III. The following provision of section 1, c. 168, 1925, is repealed: "Non-resident motor boats chartered by residents of the State and used in taking shrimp, ten dollars (\$10.00) for each boat, and on each non-resident person acting as principal or employed in taking shrimp, a license tax of ten dollars (\$10.00) for each year."

Insert the following: "It shall be unlawful for a person, who has not in good faith resided in the State of North Carolina for a period of twelve months to take shrimp within the territorial waters of the State.

"It shall be unlawful for any resident of the State of North Carolina to take shrimp for commercial purposes in any of the waters of said State between the fifteenth day of May and the fifteenth day of August, in any year: *Provided, however,* that any such resident may take such shrimp to be used as bait only, but not exceeding one bushel per day per boat."

1931, c. 117.

The above provisions relating to the taking of shrimp made subject to the approval of the Department of Conservation and Development under the general law theretofore existing.

1931, c. 331.

1965. In line 11 between the word "by" and the word "purchase" insert the word "lease."

1931, c. 81.

Add a new section as follows: "1965(a). It shall be unlawful for any person, firm or corporation, which has not been a *bona fide* resident of the State for twelve months continuously, next preceding the date on which the fishing shall commence, to use or cause to be used in the waters of the State, which shall include the distance of three nautical miles, measured from the outer beaches or shores of the State of North Carolina out and into the waters of the Atlantic Ocean, any seines, trawls or nets of any kind for the purpose of taking fish for sale or exportation. Any person, firm or corporation violating this section shall be guilty of a misdemeanor and fined or imprisoned at the discretion of the court."

1931, c. 36.

2020. Add new section: "2020(a). That it shall be unlawful for any person, firm or corporation to place perch traps in the commercial waters of Neuse River, Trent River, Moccasin River, White Oak River and New Found River or any of the tributaries thereof and it shall be unlawful to place any fish traps in the commercial waters of said streams with a mesh smaller than five inches. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction fined not more than fifty dollars or imprisoned not more than thirty days."

1931, c. 333.

Add new section as follows: "2020(b). It shall be lawful to set pound nets of not less than one and one-quarter inch bar, when fished, in the Atlantic Ocean within the three-mile limit and between Cape Hatteras and the Virginia line, but not nearer to any inlet than three miles nor nearer the beach or ocean shore than four hundred yards.

"Application for entry for the purpose of constructing permanent and semi-permanent or stationary fishing apparatus within the three-mile limit under the provisions of this act shall be made to the Department of Conservation and Development. Permits for the erection of such fishing apparatus, nets, wires or devices, may be granted by the Department of Conservation and Development if such construction are deemed to not be a menace to public safety or navigation. No construction, or any part of a construction, to be erected under the authority of this section shall be made until permission is secured from the Department of Conservation and Development and from the Federal Government. The license fee for the erection of fishing apparatus, nets, wires, or other construction which is an integral part of such fishing devices under the authority of this act, shall be at the rate of twenty-five dollars

per pocket per year, and said license shall expire each year on December thirty-one: *Provided, however*, the license fee herein levied shall not apply where the investment for such apparatus does not exceed the sum of one thousand dollars."

1931, c. 118.

2046. Repealed.
1931, c. 365.

CHAPTER XXXIX

GAMING CONTRACTS AND FUTURES

2144. Strike out the last sentence of the section and insert the following: "This section shall not be construed so as to apply to any person, firm or corporation, or his or their agent, engaged in the business of manufacturing or wholesale merchandising in the purchase and/or sale of the necessary commodities required in the ordinary course of their business; nor shall this section be construed so as to apply to any contract with respect to the purchase and/or sale for future delivery of any of the articles or things mentioned and referred to in this section, where such purchase and/or sale is made on any exchange on which any such article or things are regularly bought and sold, or contracts therefor regularly entered into, and the rules and regulations of such exchange are such that either party to such contract may require delivery thereof: *Provided*, such contract is made in accordance with such rules and regulations."

1931, c. 236, s. 1.

2145. Repealed.
1931, c. 236, s. 2.

2146. Repealed.
1931, c. 236, s. 2.

CHAPTER XLIII

INSANE PERSONS AND INCOMPETENTS

2291. In line five between the word "sale" and the words "or renting" insert the word "mortgage."

In line eight between the word "sale" and the word "and" insert the words "or mortgage."

In line nine between the word "rentings" and the word "made" insert the words "and conveyances by mortgages or deeds in trust."

In line 10 between the word "sold" and the word "and" insert the words "or conveyed by mortgage or deed in trust."

1931, c. 184, s. 1.

2292. In line three between the word "sale" and the word "of" insert the words "or mortgage."

In line six between the word "sale" and the word "of" insert the words "or mortgage."

In line 12 between the word "sale" and the word "the" insert the words "or mortgage."

Add at the end the following: "The word 'mortgage' whenever used herein shall be construed to include deeds of trust."

1931, c. 184, s. 2.

CHAPTER XLIV

INTEREST

2305(a). Now reads: "An agricultural credit corporation or association, organized under the laws of the State of North Carolina, may charge and collect by way of interest or discount on all loans made for agricultural purposes to farmers, growers and truckers of staple agricultural crops, fruits and vegetables respectively, or for the purpose of raising, breeding, fattening, or marketing of live stock, a rate of interest or discount not to exceed three per centum per annum in excess of the rate of interest or rediscount rate charged by any Federal intermediate credit bank to such agricultural credit corporation or association when rediscounting or purchasing from it the notes of such farmers, growers and truckers: *Provided*, that the total rate, both interest and rediscount to the borrower shall not exceed eight (8%) per centum per annum."

1931, c. 329.

CHAPTER XLV

JURORS

2314. Add new section: "2314(a). In the trial in the Superior Court of any case, civil or criminal, when it appears to the judge presiding that the trial is likely to be protracted, upon direction of the judge after the jury has been duly impaneled and sworn, an additional or alternate juror shall be selected in the same manner as the regular jurors in said case were selected, but each party shall be entitled to two peremptory challenges as to such alternate juror; such additional or alternate juror shall likewise be sworn and seated near the jury, with equal opportunity for seeing and hearing the proceedings, and shall attend at all times upon the trial with the jury, and shall obey all orders and admonitions of the court to the jury, and, when the jurors are ordered kept together in a criminal case, said alternate juror shall be kept with them. Such additional or alternate juror shall be liable as a regular juror for failure to attend the trial or to obey any order or admonition of the court to the jury; shall receive the same compensation as other jurors, and, except as hereinafter provided, shall be discharged upon the final submission of the case to the jury. If before the final submission of the case to the jury a juror becomes incapacitated or disqualified, he may be discharged by the judge, in which case, or if a juror dies, upon the order of the judge

said additional or alternate juror shall become one of the jury and serve in all respects as though selected as an original juror."

1931, c. 103.

2329. In line eight between the word "engineers" and the word "and" insert the word "brakemen."

1931, c. 410.

2334. Vol. III. In line four after the word "Nash" insert the words "Wayne, Iredell."

1931, c. 42.

In line three before the word "Nash" insert the word "Johnston."
"In the event of any vacancy occurring in the grand jury of Johnston County by death, removal from the county, sickness or otherwise, the presiding judge may, in his discretion, order such vacancy or vacancies filled by drawing sufficient jurors to fill said vacancy or vacancies from the jury box, and said juror or jurors so drawn shall take the oath prescribed by law and shall fill out the unexpired term of the juror or jurors whose place or places they were drawn to fill. The presiding judge shall have the power, in his discretion, to appoint an assistant foreman of the grand jury in said Johnston County and said assistant foreman so appointed shall, in the absence or disqualification of the foreman, discharge the duties of the foreman of said grand jury."

1931, c. 97; c. 130.

In line three, after the word "Columbus" insert the word "Henderson."

1931, c. 131.

In line four after the word "Nash" insert the word "Vance."

1931, c. 237.

CHAPTER XLVI

LANDLORD AND TENANT

2347. In line four between the word "lessor" and the word "the" insert the words "or by a sale of said land under any mortgage or deed of trust."

1931, c. 173, s. 1.

2354. In line two, section 2, of chapter 196, 1925, amending this section, after the word "Montgomery" insert the word "Wake."

1931, c. 20.

2366. In line 11 between the word "Rowan" and the word "Sampson" insert the word "Rutherford."

1931, c. 50.

Add at the end of section the words "Surry and Stokes."

1931, c. 194.

Add at the end of section the word "Moore."

1931, c. 446.

CHAPTER XLVII

LAND REGISTRATION

2428. After this section insert a new article as follows: "Article 9. Any land heretofore brought under the provisions and operations of this chapter may be removed and excluded therefrom by a motion in writing filed in the original cause wherein said land was brought under the provisions and operation of this chapter, and upon the filing of a petition therein showing the names of all persons owning an interest in said land and of all lien holders, mortgagees and trustees of record, and the description of said land. Upon the filing of said petition the Clerk of the Superior Court shall issue a citation to all parties interested and named in the petition, and upon the return date of said citation and upon the hearing of said motion, the said Clerk of the Superior Court may enter a decree in said cause removing and excluding said land from the provisions and operation of this chapter of the Consolidated Statutes, and transfer and conveyance of said land may be made thereafter as other common law conveyances."

"Where any land is brought into the Torrens System and under said system is registered in the public records of the register's office, said register shall cross-index the registration in the general cross-index for deeds in his office."

"Nothing in this act shall be construed to impair or remove any lien or encumbrance existing against said land."

1931, c. 286.

CHAPTER XLIX

LIENS

2445. Vol. III. Add new article as follows: "Article 2-A. *Liens of finishers and bleachers.* All persons, firms, partnerships and corporations engaged in the business of finishing, bleaching, mercerizing, manufacturing, dyeing, weighing and printing or otherwise processing cotton, wool, silk, artificial silk or goods of which cotton, wool, silk, artificial silk form a component part, shall be entitled to a lien upon the property and goods of others, which may come into their possession for work, labor, and materials furnished in any of said processing and said lien shall extend to any unpaid balance on account for work, labor and materials furnished in the course of any of said processing in respect to any of said goods of the same owner whereof the lienor's possession is terminated. The word 'owner' as used in this and the following section shall include a factor, consignee or other agent instructed with the possession of the goods held under said lien or the bill of lading consigning the same to him with authority to sell the same, to deliver to said factor, agent or consignee to the lienor for the purposes processed."

"If any part of the amount for which goods are held under said lien remains unpaid for a period of sixty days after the earliest item of said amount became due and payable the lienor may sell such goods at public auction first publishing a notice of the time and place of said sale once in each of two successive weeks in a newspaper published in the town, if any, otherwise in the county, in which the said goods are situated and at the court house door, the last publication not to be less than five days prior to the sale, and also giving five days' notice of said sale by posting in five or more public places in said county, one whereof shall be in the town or city ward in which said goods are situated, and, if the residence or past address of owner of said goods is known or can be established, sending by registered mail a copy of said notice to said owner at said address at least five days before the date of sale: Now, *Provided*, that if said goods are readily divisible no more thereof shall be so sold than is necessary to discharge the underlying indebtedness to cover the expenses of the sale. The proceeds of sale shall be applied to payment of said indebtedness and said expenses, and the balance, if any, shall be paid to the owner or person entitled thereto. The remedy herein provided to enforce said lien shall be in addition to any other provided by law."

1931, c. 48.

2481. In line three between the word "trustors" and the word "who" insert the words "their tenants, lessees or croppers."

1931, c. 173.

2482, 2483, 2484. Repealed as to Scotland and Columbus Counties.

1931, c. 95.

2490. In line eight between the word "Forsyth" and the word "Gaston" insert the word "Franklin."

1931, c. 196.

CHAPTER LIV

MORTGAGES AND DEEDS OF TRUST

2577. Now reads: "All conveyances of household and kitchen furniture by a married man, made to secure the payment of money or other things of value, are void, unless the wife joins therein and her privy examination is taken in the manner prescribed by law in conveyances of real estate, except when said mortgage or conveyance is executed for the purchase money thereof."

1931, c. 211.

2583. Add new section as follows: "2583(a). In addition to the rights and remedies now provided by law, the holder and/or owners of all or a majority, in amount, of the indebtedness, notes, bonds, or other instruments evidencing a promise or promises to pay money and secured by mortgages, deeds of trust, or other instruments conveying real or personal property, or creating a lien thereon, may exercise the following powers:

(1) To substitute a trustee by the execution of a paper writing whenever it shall appear that the trustee then named in such mortgage, deed of trust, or other instrument, securing person interested therein may appeal from the findings of the Clerk of the Superior Court pursuant to section three of this act, and such appeal shall be duly constituted when a written notice signed by, or on behalf of such person, shall have been served in any of the methods of service of summons provided by law on all other parties interested therein, including the said substituted trustee, in which notice it shall be stated that a motion will be made before the Judge of the Superior Court of the county of the clerk who made such certificate at the next regular term of such Superior Court beginning more than ten days after the service of said notice on all interested parties, and the docketing of such notices on the civil issue docket of said county. On the hearing of said motion it shall be open to all parties to contest and defend the findings of said clerk, and the judge shall review said findings *de novo* and make such findings in respect thereof as shall appear to him from the evidence to be true, and if the said substituted trustee shall be removed at said hearing another trustee shall be substituted in his stead by the court upon a finding that he or it is a proper person or corporation to perform the functions of said trusteeship, but only one such appeal shall be allowed as to each appointment.

"If any such trustee who has been substituted as provided in sub-section one of section one hereof shall have performed any functions as such trustee and shall thereafter be removed as herein provided, such removal shall not invalidate or affect the validity of such acts in so far as any purchaser or third person shall be affected or interested, and any conveyances made by such trustee before removal if otherwise valid, shall be and remain valid and effectual to all intents and purposes, but if any trustee upon such hearing is declared to have been wrongfully removed, he shall have his right of action against the substituted trustee for any compensation that he would have received in case he had not been wrongfully removed from such trust.

"The registration of such paper writing designating a new trustee under sub-section one of section one hereof shall be from and after registration, constructive notice to all persons, and that no appeal or other proceedings shall be instituted to contest the same after one year from and after such registration.

"Whenever any substituted trustee shall be appointed as herein provided and such designation of such substituted trustee shall have been registered, together with the certificates herein required, then it shall be the duty of the Register of Deeds to make an appropriate notation on the margin of the registration of the said mortgage, deed of trust, or other instrument securing the payment of money, indicating the place of registration of such appointment of a substituted trustee, and this shall be done as many times as a trustee may be substituted as herein provided for, and it shall be competent for the holder of such deed of trust, or deeds of trust, mortgage or mortgages, wherein the same trustee is named to execute one instrument applying to all such deeds of trust or mortgages, in the substitution of a trustee for any of the causes set forth in section "one" sub-section one, and in said instrument reciting and naming the mortgages and/or deeds of trust affected by giving the names of the grantors, the trustee and, if registered, the book and page of such registration; and this may be done as

many times as a trustee may be substituted as herein provided for, and in which cases the Register of Deeds shall make, as to each recited instrument, mortgage or deed of trust, the notation provided for in section seven of this act.

"The powers set out in section one of this act may be exercised as often and as many times as the right to make such substitution may arise under the terms of section one, and all the privileges and requirements and rights to contest the same as herein set out shall apply to each deed of trust or mortgage and to each substitution.

"It is the intent of this act that if and when any clause of the same shall be declared unconstitutional by the court of last resort, then the remaining provisions of this act shall be and remain in full force and effect and unaffected by such decisions."

1931, c. 78.

2591. Amended so that the first sentence now reads: "In the foreclosure of mortgages or deeds of trust on real estate or by order of court in foreclosure proceedings either in the Superior Court or in actions at law or in the case of the public sale of real estate by an executor, administrator or administrator with the will annexed, or by any person by virtue of the power contained in a will, the sale shall not be deemed to be closed under ten days."

1931, c. 69.

CHAPTER LVI

MUNICIPAL CORPORATIONS

2649. In lines four and five strike out the word "Columbus."

1931, c. 369.

2728. Add at end of section: "2728(a). Municipalities desiring to make street and sidewalk improvements on property owned and/or leased by railroad companies, are hereby authorized to make such improvements on any such street used as a public street, subject to the rights of any such railroad company to use and occupy the same for railroad purposes: *Provided, however,* that the petition or petitions contemplated and required by the provisions of this article, need not be signed by such railroad company or companies, nor shall any part of the railroad right of way be considered as abutting property, but the said petition shall be signed by at least a majority in number of the owners of property other than the railroad right of way, who must represent at least a majority of all the lineal feet frontage of the lands, other than said railroad right of way (a majority in interest of owners of undivided interest in any piece of property to be deemed and treated as one person for the purpose of the petition), abutting upon such street or streets proposed to be improved: *Provided, further,* that not more than one-half of the total cost of the street or sidewalk improvement made by such municipality, exclusive of so much of the cost as is incurred at street intersections, shall be specially assessed upon the lots or parcels of land abutting directly on the improvement, other than the property included in the railroad right of way, according to the extent of their respective frontage thereon, by an equal rate per foot of such frontage.

"Nothing contained in this act shall be construed so as to deprive any railroad company of any right which it may now or hereafter possess by reason of its ownership of any right of way.

"Any additional expense which the railroad may incur in removing or altering any pavement or other improvements made under and by virtue of the provisions of this act, which interfere with the railroad's use of its right of way, shall be borne by the municipality affected: *Provided,* this act shall not affect in any way existing contracts between municipalities and railroads for rights of way through streets, and shall not affect existing contracts between municipalities and railroads for upkeep and improvement of streets."

1931, c. 222.

2763. Strike out last sentence and insert the following: "The fee that shall be allowed said inspector of buildings for the work of such inspection of electric wiring shall be fixed by the governing body of the town or city, and shall be paid by the person applying for the inspection."

1931, c. 49, s. 1.

Applies to Moore County and to the city of Burlington only.

1931, c. 49, s. 3; c. 133.

2768. Now reads: "For the inspection of every new building or old building repaired or altered, the local inspector shall collect, before issuing the building certificate, inspection fees which shall be fixed by the governing body of the city or town, and which shall be paid by the owner of such new building, or old building which has been repaired or altered."

1931, c. 49, s. 2.

Applies only to Moore County and the city of Burlington.

1931, c. 49, s. 3; c. 133.

2776(s). Vol. III. Add at the end of section: "*Provided, however,* that when at any intersection of streets in the corporate limits of any city or town the said legislative body of the said city or town promulgates any certain regulations and/or restrictions for the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land on two or more of said corners at said intersection, it shall be the duty of such legislative body upon written application from the owner of the other corners of said intersection to redistrict, restrict and regulate the remaining said corners of said intersecting streets in the same manner as is prescribed for the erection, construction, reconstruction, alteration, repair or use of building, structure or land of the other said corners for a distance not to exceed one hundred and fifty feet from the property line of said intersecting additional corners."

Does not apply to the Counties of Rowan, Durham, Rockingham, Perquimans, Guilford, Cleveland and Wayne.

1931, c. 176.

2792(i). Vol. III. In line eight, after the word "body" insert the words "on either benefits or damages."

In line 13, after the word "trial" insert the words "before a jury on issues of fact relating either to damages or to benefits."

Does not apply to the city of Greensboro nor to the counties of Stanly, Mitchell, Moore, Davidson, Hertford, Haywood, Madison, Rutherford, Halifax, Pender, Transylvania, Wake, Cleveland, Pitt, Rockingham, Buncombe, Harnett, Lincoln, Cabarrus, Watauga, Forsyth, Alexander and Nash. Does not apply to accrued actions or pending litigation.
1931, c. 258.

2830. Now reads: "No contract for construction or repair work, or for the purchase of apparatus, supplies, materials or equipment, involving the expenditure of public money, the estimated cost of which amounts to or exceeds one thousand (\$1,000) dollars, except in cases of special emergency involving the health or safety of the people or their property, shall be awarded by any board or governing body of any county, city or town or other sub-division of the State, unless proposals for the same shall have been invited by advertisement once in at least one newspaper having general circulation in the county, city, town or other sub-division, the publication to be at least one week before the time specified for the opening of said proposals: *Provided*, if there is no newspaper published in the county and the estimated cost of the contract is less than two thousand (\$2,000) dollars, such advertisement may be either published in some newspaper as required herein or posted at the court house door not later than one week before the opening of the proposals in answer thereto, and in the case of a city, town or other sub-division wherein there is no newspaper published and the estimated cost of the contract is less than two thousand (\$2,000) dollars, such advertisement may be either published in some newspaper as required herein or posted at the court house door of the county in which such city, town or other sub-division is situated and at least one public place in such city, town or other sub-division. Such advertisement shall state the time and place where plans and specifications of proposed work, or complete description of apparatus, supplies, materials or equipment may be had and the time and place for opening the proposals in answer to such advertisement, and shall reserve to said board or governing body the right to reject any or all such proposals. All such proposals shall be opened in public, shall be recorded on the minutes of the board or governing body and the award, if any be made, shall be made to the lowest responsible bidder, taking into consideration quality and the time specified in the proposal for performance of the contract. Each proposal shall be accompanied by a deposit with the board or governing body of cash or a certified check on some bank or trust company organized under the laws of this State, of an amount equal to not less than two per centum (2%) of the proposal; said deposit to be retained in the event of failure of the successful bidder to execute the contract within ten days after the award or to give satisfactory surety as required herein. All contracts required herein shall be executed in writing, and where the amount involved is two thousand (\$2,000) dollars or more, the board or governing body shall require the person, firm or corporation to whom the award of contract is made to furnish bond in some surety company authorized to do business in this State or require a deposit of money, certified check or Government Securities, for the full amount of said contract for the faithful performance of the terms of said contract, and no such contract shall be altered except by written agreement of the contractor, the sureties on his bond, and the board or governing body. Such surety bond or other securities as required herein shall be deposited with the treasurer of the unit until the contract has been carried out in all respects.

"All contracts for construction or repair work or for the purchase of apparatus, supplies, materials or equipment made by any officer, department, board, or commission of any county, city, town or other sub-division of this State, except as otherwise required by this act when practical, and involving expenditure of public money of two hundred (\$200) dollars or more shall be awarded to the lowest responsible bidder after informal bids have been secured, and it shall be the duty of such officer, department, board or commission to keep a record of all bids submitted, such record to be subject to public inspection at any time.

"No bill or contract shall be divided for the purpose of evading any provisions of this act.

"This act shall be administered subject to all the provisions of the Local Government Act passed at this session of the General Assembly, and nothing herein contained shall be construed as in anywise repealing, amending or affecting any of the provision of said Local Government Act."

1931, c. 338.

2831(a). (Chapter 339, 1929, repealed and chapter 141, 1925, re-enacted.) This section now reads as enacted in 1925.

1931, c. 46.

2919. Vol. III. Strike out the fifth paragraph and insert the following: "'Funding Bonds' means bonds issued to pay or extend the time of payment of debts incurred before July first, nineteen hundred and thirty-one, not evidenced by bonds."

1931, c. 60, s. 46.

Strike out the eleventh paragraph and insert the following: "'Refunding Bonds' means bonds issued to pay or extend the time of payment of debts incurred before July first, nineteen hundred and thirty-one, evidenced by bonds."

1931, c. 60, s. 46.

2922. Vol. III. Now reads: "2922. *The Fiscal Year.* The fiscal year of every municipality shall begin on the first day of July, one thousand nine hundred thirty-one, and on the first day of July in each year thereafter. In any municipalities whose fiscal year begins on the first day of June the present fiscal year shall be a year of thirteen months ending on the last day of June, one thousand nine hundred thirty-one. In order that the additional expenses of such municipality by reason of the added month may be met without unduly burdening taxable property, any such municipality shall have the power to borrow money and issue negotiable notes therefor in such sum as may be approved by the commission and in the manner and under the limitations provided by the Municipal Finance Act, except that any such notes and the renewals thereof may mature at any time prior to July first, one thousand

nine hundred thirty-four, but it shall be the duty of any municipality taking advantage of this provision to include in the budget of each of the fiscal years beginning in one thousand nine hundred thirty-one, one thousand nine hundred thirty-two and one thousand nine hundred thirty-three at least one-third of the face amount of such notes."

1931, c. 60, s. 66.

2923-2931. Vol. III. Repealed.

1931, c. 60, s. 72.

2931(a). Insert a new section as follows: "2931(a). In order to avoid the necessity of borrowing money in anticipation of the receipt of taxes and revenues or the proceeds of the sale of bonds, a municipality may by ordinance create a special revolving fund and with the consent of the commission, provide for raising the same to be used in anticipation of the receipt of such moneys and to be replenished by means of such moneys when received. Withdrawals of money from said fund shall be made only for the purposes and within the amounts and for the periods and upon the conditions stated in sections two thousand nine hundred and thirty-two, two thousand nine hundred and thirty-three and/or two thousand nine hundred and thirty-four in respect to the borrowing of the money. Such withdrawals shall not be made unless approved by the Local Government Commission in the same manner as loans made under said section. No ordinance creating such a fund shall be repealed or amended so as to divert or reduce the amount of the fund, without the approval of said Commission as to necessity or expediency."

1931, c. 60, s. 47.

2933. Vol. III. Add at the end of section: "For the purpose of paying or renewing notes evidencing indebtedness incurred before January first, one thousand nine hundred thirty-one, and authorized by this act, as amended, to be funded, any municipality may issue new notes from time to time until such indebtedness is paid out of revenues or funded into bonds. Such new notes may be made payable at any time or times not later than five years after the first day of January, one thousand nine hundred and thirty-one, notwithstanding anything to the contrary in this section."

1931, c. 60, s. 64.

2935. Vol. III. Strike out the words "last two sections" in line two and insert the words "last three sections."

1931, c. 293.

2937. Vol. III. Now reads: "2937. *For what purposes bonds may be issued.* A municipality may issue its negotiable bonds for any one or more of the following purposes:

"1. For any purpose or purposes for which it may raise or appropriate money, except for current expenses.

"2. To fund or refund a debt of the municipality incurred before July first, nineteen hundred and thirty-one if such debt be payable at the time of the passage of the ordinance authorizing bonds to fund or refund such debt or be payable within one year thereafter, or if such debt, although payable more than one year thereafter, is to be cancelled prior to its maturity and simultaneously with the issuance of the bonds to fund or refund such debt: *Provided, however,* that bonds shall not be issued to refund serial bonds which mature in installments as provided in section two thousand nine hundred and fifty-two, unless the bonds to be refunded mature on or before July first, nineteen hundred and thirty-three. The word 'debt' as used in this sub-section two includes all valid or enforceable debts of a municipality, whether issued for current expenses or for any other purpose."

1931, c. 60, s. 48.

2938. Vol. III. Add a new sub-section: "5. *Application of other laws.* No restriction, limitation or provision contained in any special, private or public-local law relating to the issuance of bonds, notes or other obligations of a municipality shall apply to bonds or notes issued under this act for the purpose of refunding, funding or renewing indebtedness incurred before July first nineteen hundred and thirty-one, and no vote of the people shall be required for the issuance of bonds or notes for said purpose, unless required by the Constitution of this State."

1931, c. 60, s. 49.

2942. Vol. III. Strike out sub-section 7 and insert the following: "7. *Period of payment.* In determining for the purpose of this section the shortest period in which a debt to be funded or refunded hereunder can be finally paid without making it unduly burdensome upon the taxpayers of the municipality, the governing body shall not deem said period to be greater than thirty years, if the gross debt of the municipality is less than twelve per centum of the assessed valuation of taxable property in the municipality at the time of the passage of the ordinance authorizing said funding or refunding, and fifty years in any other case."

1931, c. 60, s. 50.

2943. Vol. III. In sub-section one strike out the words "(1) Outstanding debt incurred before December sixth, one thousand nine hundred and twenty-one, not evidenced by bonds and insert the words "(1) Outstanding debt incurred before July first, nineteen hundred and thirty-one, not evidenced by bonds."

1931, c. 60, s. 51.

2952. Vol. III. Add at end of section: "In the case of an issue of funding or refunding bonds of a municipality having a gross debt equal to twelve per cent or more of the assessed valuation of taxable property in the municipality at the time of passage of the ordinance authorizing the bonds, the date of maturity of the first maturing installment or series of the bond issue, and also the amounts of the several installments or series, shall not be subject to the foregoing requirements of this section."

1931, c. 60, s. 52.

2956. Vol. III. Repealed.
1931, c. 60, s. 53.

CHAPTER LXIII

PARTITION

3229. Add at end of section: "In all special proceedings in which a plat, map or blueprint shall be filed as a part of the papers, the Clerk of the Superior Court may have a photostatic copy of said plat, map or blueprint made on a sheet of the same size as the leaves in the book in which the special proceeding is recorded, and when made, shall place said photostatic copy in said book at the end of the report of the commissioners or other document referring to said plat, map or blueprint."

"The Clerk of the Superior Court shall be allowed a fee to be fixed by the county commissioners not exceeding the sum of five dollars to be taxed in the bill of costs, which fee shall cover the cost of making said photostatic copy and all services of the clerk in connection therewith."

1931, c. 171.

CHAPTER LXV

PROBATE AND REGISTRATION

3366(h). Vol. III. In line three between the word "public" and the word "when" insert the words "prior to January first, one thousand nine hundred and thirty-one."
1931, c. 166.

Does not affect litigation pending January 1, 1931.

After the word "public" in line three, insert the words "or Justices of the Peace" and after the word "public" in lines four and seven insert the words "or Justices of the Peace."

Taking the two amendments together the third line of the section now reads: "acknowledged and privy examination of wives had before Notaries Public and Justices of the Peace prior to January first, one thousand nine hundred and thirty-one, when,"
1931, c. 438.

CHAPTER LXVI

PROHIBITION

3401. Add at end of section: "*Provided*, the provisions of this act shall not apply to Nash County."

Chapter 121, Public Laws, Extra Session 1921, repealed, and no fee allowed in Nash County.

1931, c. 91.

CHAPTER LXX

ROADS AND HIGHWAYS

3835. Now reads: "The establishment, alteration, or discontinuance of any cartway, church road, mill road, or like easement, for the benefit of any person, firm, association, or corporation, over the lands of another, shall be determined by a special proceeding instituted before the Clerk of the Superior Court in the county where the property affected is situate. Such special proceeding shall be commenced by a petition filed with said Clerk and the service of a copy thereof on the person or persons whose property will be affected thereby. From any final order or judgment in said special proceeding, any interested party may appeal to the Superior Court for trial *de novo* and the procedure established under chapter thirty-three, entitled 'Eminent Domain,' shall be followed in the conduct of such special proceeding insofar as the same is applicable to this act."

1931, c. 448.

3836. Vol. III. Now reads: "If any person, firm, association, or corporation shall be engaged in the cultivation of any land or the cutting and removing of any standing timber, or the working of any quarries, mines or minerals, or the operating of any industrial or manufacturing plants, or taking action preparatory to the operation of any such enterprises, to which there is leading no public road or other adequate means of transportation, affording necessary and proper means of ingress thereto and egress therefrom, such person, firm or corporation may institute a special proceeding as set out in the preceding section, and if it shall be made to appear to the court necessary, reasonable and just that such person shall have a private way to a public road or water course or railroad over the lands of other persons, the court shall appoint a jury of view of three disinterested freeholders to view the premises and lay off a cartway, tramway, or railway of not less than fourteen feet in width, or cableways, chutes, and flumes, and assess the damages the owner or owners of the land crossed may sustain thereby, and make report of their findings in writing to the Clerk of the Superior Court. Exceptions to said report may be filed by any interested party and such exceptions shall be heard and determined by the Clerk of the Superior Court. The Clerk of the Superior Court may affirm or modify said report, or set the same aside and order a new jury of view. All damages assessed by a judgment of the Clerk, together with the cost of the proceeding, shall be paid in to the Clerk's office before the petitioners shall acquire any rights under said proceeding."

1931, c. 448.

3837. Now reads: "Cartways or other ways established under this section or heretofore established, may be altered, changed, or abandoned in like manner as herein provided for their establishment upon petition instituted by any interested party: *Provided*, that all cartways, tramways, or railways established for the removal of timber shall automatically terminate at the end of a period of five years, unless a greater time is set forth in the petition and the judgment establishing same."

1931, c. 448.

3838. Now reads: "Necessary roads leading to any church or other place of public worship may be established in the same manner as set forth in the preceding sections of this article upon petition of the duly constituted officials of such church."
1931, c. 448.

3838(a). Add new section: "3838(a). Whenever any railroad line track and right of way shall lie between any body of merchantable timber or quarry or other kind or class of heavy property requiring machinery for transportation and any body of navigable water over which such property could be floated or shipped, and the owner of such timber or property shall desire to transport such property to water for purpose of floating or shipping, such property owner shall have the right to file petition before the Corporation Commission for a right to cross such railroad with any other railroad track or tramway. The procedure for the hearing of the petition shall be same as other proceedings of the Commission. The Commission shall hear the facts and if it be found reasonably necessary that the railroad track and right of way shall be crossed by a temporary railroad track the Commission shall so order and prescribe the payment of the expense and the cost."
1931, c. 448.

3846(f). Vol. III. State Highway Commission of seven members created, appointment, term of office, compensation, etc., provided for.
1931, c. 145, s. 1.

3846(j). Vol. III. As amended by c. 46, 1927. In line two of section one, chapter 46, 1927, after the word "Commission" insert the words "as a part of the State Highway System."

In line three strike out the words "commissioner of the district in which said road is located" and insert the words "chairman or his duly authorized agent."

In lines 17 and 18 strike out the words "the others to be from districts other than that from which the protest is filed."

1931, c. 145, s. 4.

Add new sub-sections: "(m). The State Highway Commission shall have authority to provide roads for the connection of airports in the State with the public highway system, and to mark the highways and erect signals along the same for the guidance and protection of aircraft.

"(n). The State Highway Commission shall have authority to provide facilities for the use of water-borne traffic by establishing connections between the highway system and the navigable waters of the State by means of connecting roads and piers."

1931, c. 145, s. 21.

3846(p). Vol. III. Repealed.

1931, c. 145, s. 22.

3846(bb). Vol. III. Strike out the proviso beginning with the word "Provided" in line 10 and ending with the word "enterprise" in line 13.

1931, c. 145, s. 23.

3846(gg). Vol. III. Repealed.

1931, c. 145, s. 2.

3846(hh). Vol. III. Repealed.

1931, c. 145, s. 2.

CHAPTER LXXI

SALARIES AND FEES

3893. Vol. III. Add at end of section: "Provided, that in criminal actions no peace officer within said county, serving on a salary from the county or city, shall be allowed to file any witness ticket for attendance upon court in any court held in the township or city, or adjoining township in which he resides."

Applies only to Beaufort County.

1931, c. 54.

3903. Prescribing fees of Clerk of the Court of Northampton County.

1931, c. 11, s. 3.

3904. Vol. III. Add a new paragraph as follows: "In Mitchell County, the Clerk of the Superior Court shall receive double the amount of fees and commissions as provided in section three thousand nine hundred and three of this chapter."

1931, c. 53, s. 1.

3905. Add a new paragraph as follows: "The Coroner of Wake County shall receive in lieu of all fees, commissions and compensations allowed and provided for by this section, the sum of one thousand two hundred dollars per annum, payable monthly by the Treasurer of Wake County."

1931, c. 137.

3906-3907. Add at end of 3907 a new paragraph as follows: "In Northampton County the Register of Deeds shall collect the following fees for the use of the County: For recording any deed or other instrument of writing authorized to be registered, with certificates of probate and acknowledgment and private examination of a married woman, containing not more than three copy sheets, one dollar, and for every additional copy sheet, ten cents; chattel mortgages, short forms, twenty cents; all plats, one dollar and fifty cents; title notes, one dollar."

1931, c. 11, s. 2.

3908-3909. Add at end of 3909 a new paragraph as follows: "The Sheriff of Northampton County shall collect for the use of Northampton County the following fees: Serving civil summons, one dollar for each defendant; subpoena, for each person, thirty cents; for each arrest, two dollars."

1931, c. 11, s. 4.

3923. Vol. III. Under paragraph two add "Madison" to list of counties to which the fees set forth in said paragraph apply.

1931, c. 51.

Add Cumberland to above list of counties.

1931, c. 303.

CHAPTER LXXVIII

TRUSTEES

4018(a). Vol. III. In line three after the word county, insert the words "city, town or school district."

In line five after the word fifteen insert the following: "*Provided*, that the net debt of such county, city, town or school district does not exceed ten (10%) per cent of the assessed valuation of the property therein subject to taxation for the payment of such bonds."

1931, c. 257.

CHAPTER LXXIX

WAREHOUSE RECEIPTS

4060. In line two, after the word "receipt" insert the words "issued by him or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of warehouse receipts,".

1931, c. 358, s. 1.

4080. Now reads: "*Who may negotiate a receipt.* A negotiable receipt may be negotiated by any person in possession of the same however such possession may have been acquired, if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of such person or if at the time of negotiation the receipt is in such form that it may be negotiated by delivery."

1931, c. 358, s. 2.

4087. In lines four and five strike out the words "induced by fraud, mistake, or duress to deprive the possession or custody of the receipt to such person," and insert the following: "deprived of the possession of the same by loss, theft, fraud, accident, mistake, duress, or conversion,".

In line seven after the word "therefor" insert the words "in good faith"; after the word "duty" insert the words "or loss, theft"; before the word "fraud" strike out the word "or" and after the word "fraud" insert the word "accident."

In line eight before the period insert the words "or conversion."

Lines seven and eight now read: "negotiated, paid value therefor in good faith, without notice of the breach of duty, or loss, theft, fraud, accident, mistake, or duress, or conversion."

1931, c. 358, s. 3.

CHAPTER LXXX

WIDOWS

4106. Add at end: "If either party to the proceeding shall demand it, the clerk shall appoint three persons qualified to act as jurors, unless one of the parties demands a greater number, and then not exceeding twelve, who shall meet on the premises or some part thereof, and after being duly sworn by the clerk or someone authorized to administer oaths, shall proceed to allot and set apart to the widow her dower in said premises according to law and make report of their proceedings under their hands, or the hands of a majority of them, within five days to the Clerk of the Superior Court; and when the jurors are so appointed the sheriff will not countersign the report nor take any part in the proceedings, except that the clerk may cause notice to be served on the jurors so appointed, if he deems or finds it necessary."

"This shall apply to proceedings pending where the order to the sheriff has not been made and also when a new jury is ordered in any proceeding now pending."

1391, c. 393.

CHAPTER LXXXII

CRIMES AND PUNISHMENTS

4231. Vol. III. In line five after the word "bank" insert the words "or building and loan association."

1931, c. 12.

4268. In line three after the word "administrator" strike out the word "or" and insert a comma and after the word "executor" insert the word "trustee."

1931, c. 158.

4283(a). Chapter 273, 1929. Add the following counties to section two of act of 1929: Gates, Bladen, Ashe, Washington, Nash, Johnston, Duplin, Wayne, Guilford, Rowan, Bertie, Moore, Harnett, Columbus, Watauga, Lincoln, Caswell, Orange, Union, Durham.

1931, cc. 63, 138, 292.

4284. Section 2, c. 103, 1929, amending this section, now reads: "This act shall only apply to Martin County, Pitt County, Wake County and Watauga County."
1931, c. 9.

4286(a). Add new section: "4286(a). Any person who obtains accommodations at any public or private hospital or sanatorium without paying therefor, with intent to defraud the said hospital or sanatorium, or who obtains credit at such hospital or sanatorium by the use of any false pretense, or who, after obtaining credit or accommodation at a hospital or sanatorium, absconds and surreptitiously removes his baggage therefrom without paying for the accommodation or credit, shall be guilty of a misdemeanor, and shall, upon conviction, be fined or imprisoned at the discretion of the court."
1931, c. 214.

4409. Add new section: "4409(a). All prisoners in the State's Prison, or in any county jail or county convict camp, who shall be assigned to regular work which requires the performance of the same or substantially the same duties on Sundays as on other days of the week, shall be allowed a commutation of their sentences for each Sunday, or fractional part of a Sunday on which they shall be required to perform the duties of the task assigned to them. The commutation of sentence provided for in this act shall be in addition to all other commutations of sentence allowed such prisoners under existing statutes and laws of the State."
1931, c. 198.

4433. In line three after the word "called" insert the words "an illegal punch board or an illegal slot machine."
1931, c. 14, s. 2.

4434. In line three after the word "prohibited" insert the words "or any illegal punch board or illegal slot machine."
1931, c. 14, s. 3.

4435. In line four, after the word "article" insert the words "or any illegal punch board or illegal slot machine."
1931, c. 14, s. 4.

4450. Vol. III. Add new section: "4450(a). If any mother shall wilfully abandon her child or children, whether legitimate or illegitimate, and under sixteen years of age she shall be guilty of a misdemeanor."
1931, c. 57.

4458. In line four, sub-section 1, between the word "Madison" and the word "Mecklenburg" insert the word "McDowell."
1931, c. 219.

4480. Vol. III. In line 19, between the word "Bertie" and the word "Warren" insert the word "Vance."
1931, c. 136, s. 1.

4481. Vol. III. In line 19 between the words "Rockingham" and "Lee" insert the word "Vance."
1931, c. 136, s. 2.

CHAPTER LXXXVIII CRIMINAL PROCEDURE

4556. Following this section add new article as follows: "Article 6-A. Extradition. *Definitions.* Where appearing in this act, the term 'Governor' includes any person performing the functions of Governor by authority of the law of this State. The term 'Executive Authority' includes the Governor and any person performing the functions of Governor in a State other than this State. And the term 'State,' referring to a State other than this State, refers to any other State or territory, organized or unorganized, of the United States of America.

Criminals to be delivered upon requisition. Subject to the qualifications of this act, and the provisions of the Constitution of the United States controlling, and acts of Congress in pursuance thereof, it is the duty of the Governor of this State to have arrested and delivered up to the executive authority of any other State of the United States any person charged in that State with treason, felony, or other crime, as provided in section 4550 of the Consolidated Statutes or abandonment of wife and/or children who has fled from justice and is found in this State.

Form of demand. No demand for the extradition of a person charged with crime in another State shall be recognized by the Governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit made before a magistrate there, or by a copy of any warrant which was issued thereon. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that State; and the copy must be authenticated by the executive authority making the demand, which shall be *prima facie* evidence of its truth.

Governor may investigate case. When a demand shall be made upon the Governor of this State by the executive authority of another State for the surrender of a person so charged with crime the Governor may call upon the attorney general or any prosecuting officer in this State to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

What papers must show. A warrant of extradition must not be issued unless the documents presented by the executive authority making the demand show that the accused was

present in the demanding State at the time of the commission of the alleged crime, and that he thereafter fled from that State, and is now in this State, and that he is lawfully charged by indictment found or by an information filed by a prosecuting officer and supported by affidavit to the facts, or by affidavit made before a magistrate in that State, with having committed a crime under the laws of that State, or that he has been convicted of crime in that State and has escaped from confinement or broken his parole.

"Issue of Governor's warrant of arrest; its recitals. If the Governor shall decide that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the State seal, and be directed to a sheriff, marshal, coroner, or other person whom he may think fit to entrust with the execution thereof; and the warrant must substantially recite the facts necessary to the validity of its issue.

"Manner and place of execution. Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where he may be found within the State and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and to deliver the accused subject to the provisions of this act, to the duly authorized agent of the demanding State.

"Authority of arresting officer. Every such officer or other person empowered to make the arrest, shall have the same authority in arresting the accused to command assistance therein, as sheriffs and other officers have by law in the execution of any criminal process directed to them with the like penalties against those who refuse their assistance.

"Accused may apply for writ of Habeas Corpus. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he has been informed of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand legal counsel; and if the prisoner, his friends, or counsel shall state that he or they desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this State, who shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. And when such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding State.

"Penalty for non-compliance with preceding section. Any officer who shall deliver to the agent for extradition of the demanding State a person in his custody under the Governor's warrant in disobedience to the last section or any agent for extradition who shall attempt to deprive the defendant of the benefits of section nine shall be guilty of a misdemeanor, and on conviction shall be fined (not more than one thousand (\$1,000) dollars, or be imprisoned not more than six months, or both).

"Confinement in jail when necessary. The officer or person executing the Governor's warrant of arrest, or the agent of the demanding State to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the person having charge of him is ready to proceed on his route, such person being chargeable with the expense of keeping.

"Arrest prior to requisition. Whenever any person within this State shall be charged on the oath of any credible person before any judge or other magistrate of this State with the commission of any crime in any other State and with having fled from justice; or whenever complaint shall have been made before any judge or other magistrate in this State setting forth on the affidavit of any credible person in another State that a crime has been committed in such other State and that the accused has been charged in such State with the commission of the crime, and has fled therefrom and is believed to have been found in this State, the judge or magistrate shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this State, and bring him before the same or any other judge, court or magistrate who may be convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

"Arrest without a warrant. The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant upon reasonable information that the accused stands charged with a crime punishable by death or life imprisonment or ten years in the State's Prison in the courts of another State; but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the last section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

"Commitment to await requisition; bail. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and that he probably committed the crime, and, except in cases arising under section six, that he has fled from justice, the judge or magistrate must commit him to jail by a warrant reciting the accusation for such a time specified in the warrant as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the State having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

"Bail except in capital and life imprisonment cases; condition and requisites of bond. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the State in which it was committed, the judge or magistrate must admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the Governor of this State.

"If no arrest made on Governor's warrant before the time specified. If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant, bond or undertaking, the judge or magistrate may discharge him or may recommit him to a further day, or may again take bail for his appearance and surrender, as provided in section sixteen; and at the expiration of the second period of commitment, or if he has been bailed and appeared according to the terms of his bond or undertaking, the judge or magistrate may either

discharge him, or may require him to enter into a new bond or undertaking, to appear and surrender himself at another day.

"Forfeiture of bail. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the condition of his bond, the court, by proper order, shall declare the bond forfeited; and recovery may be had thereon in the name of the State as in the case of other bonds or undertakings given by the accused in criminal proceedings within this State.

"If a prosecution has already been instituted in this State. If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the Governor at his discretion either may surrender him on the demand of the executive authority of another State, or may hold him until he has been tried and discharged, or convicted and punished in this State.

"Governor may recall warrant or issue alias. The Governor may recall his warrant of arrest, or may issue another warrant whenever he deems proper.

"Fugitives from this State. Whenever the Governor of this State shall demand a person charged with crime in this State from the chief executive of any other State, or from the chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this State, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this State in which the offense was committed.

"Manner of applying for requisition. When the return to this State of a person charged with crime in this State is required, the prosecuting attorney (of the county in which the offense is committed) shall present to the Governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, and the approximate time, place and circumstances of its commission, the State in which he is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this State for trial, and that the proceeding is not instituted to enforce a private claim. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged. The prosecuting officer may also attach such further affidavits and other documents in duplicate as he may deem proper to be submitted with such application. One copy of the application with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment or complaint or information and affidavit, shall be filed in the office of the Governor, to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

"Costs and expense. When the crime shall be a felony, the expenses shall be paid out of the State Treasury, on the certificate of the Governor and warrant of the Auditor; and in all other cases they shall be paid out of the county treasury in the county wherein the crime is alleged to be committed. The expenses shall be the actual travelling and subsistence costs of the agent of the demanding State, together with such legal fees as were paid to the officers of the State on whose Governor the requisition is made. In every case, the officer entitled to these expenses shall itemize the same and verify them by his oath for presentation, either to the Governor of the State, in proper cases, or to the board of county commissioners, in cases in which the county pays such expenses.

"Exemption from civil process. A person brought into this State on extradition based on a criminal charge, shall not be subject to service of personal process in civil actions arising out of the same fact as the criminal proceeding to answer which he is returned, until he has been convicted in the criminal proceeding, or if acquitted, until he has had ample opportunity to return to the State from which he was extradited.

"No right of asylum. After a person has been brought back to this State upon extradition proceedings, he may be tried in this State for other crimes which he may be charged with having committed here, as well as that specified in the requisition for his extradition.

"Interpretation. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

"If any part of this act is for any reason declared void, such invalidity shall not effect the validity of the remaining portions of this act."

1931, c. 124.

CHAPTER LXXXIV

AGRICULTURE

4667. Now reads: "The Department of Agriculture, Immigration and Statistics is hereby created and established and all the duties shall be performed by the Commissioner of Agriculture, as in this chapter provided for, with the advice of a board to be styled 'The Board of Agriculture.' The Board of Agriculture shall consist of the Commissioner of Agriculture and five other members, said five other members to be appointed by the Governor, by and with the consent of the Senate. The Commissioner of Agriculture shall be the chairman of the board and shall preside at its meetings. In the appointment of the five members of the board, the Governor shall take into consideration the different agricultural interests of the State and appoint one member who shall be a practical livestock grower to represent the livestock interests of the State; one who shall be a practical tobacco farmer to represent the tobacco farming interest; one who shall be a practical cotton grower to represent the cotton farming interests; one who shall be a practical truck farmer to represent the truck farming interests; and one who shall be a practical general farmer to represent all other general farming interests. The present Governor, in appointing the five members to said board as herein provided for shall appoint three of said members for a term of two years and two of said members for a term of four years, and their successors shall be appointed for a term of four years."

"All five members shall hold office until their successors are appointed and qualified. The Commissioner of Agriculture and the members of the Board of Agriculture shall be practical farmers engaged in their profession."

1931, c. 360, s. 1.

4669. Now reads: "The Board shall meet for the transaction of business in the city of Raleigh at least twice a year, and oftener, if called by the Commissioner of Agriculture."

1931, c. 360, s. 2.

4741(a). Add a new section: "4741(a). It shall be unlawful for any person, firm, or corporation to sell, or offer or expose for sale or distribution within the State the feeding material known as 'mixed feed oats' unless it first be ground.

"The duty of enforcing this act and carrying out its provisions and requirements shall be vested in the Commissioner of Agriculture. The Department of Agriculture shall adopt such rules and regulations as may be necessary for the efficient enforcement of this act.

"Every violation of the provisions of this act shall be deemed a misdemeanor and punishable by a fine not to exceed one hundred dollars."

1931, c. 106.

4768. Add new article: "Article 7(a). *Definitions in this act.* (a) The word 'person' shall mean person, firm, or corporation, either principal or agent.

"(b) Any word used shall indicate the singular or plural as the case demands.

"(c) The word 'oleomargarine' shall mean: all substance heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of tallow, beef extracts, suet, lard, lard oil, fish oil, or fish fat, vegetable oil, annato, and other coloring matter, intestinal fat and offal fat, if (first) made in imitation or semblance of butter, or (second) calculated or intended to be sold as butter or for butter, or (third) churned, emulsified, or mixed in cream, milk, water, or other liquid and containing moisture in excess of one per centum of common salt. This section shall not apply to puff-pastry shortening nor churned or emulsified in milk or cream, and having a melting point of one hundred and eighteen degrees Fahrenheit or more, nor to any of the following containing condiments or spices: salad dressings, mayonnaise dressings, or mayonnaise products.

"*Colored oleomargarine.* It shall be unlawful to sell, offer for sale, or merchandise in any manner whatsoever oleomargarine which is of a yellow color in imitation or semblance of butter as defined in section three of this act.

"*Application for license to sell uncolored oleomargarine.* Every person desiring to manufacture, sell, or offer or expose for sale, or have in possession with intent to sell, oleomargarine not made or colored so as to look like butter, shall make application for a license to do so in such form as prescribed by the State Commissioner of Agriculture.

"If the said application is satisfactory to the State Commissioner of Agriculture, there shall be issued to the applicant a license authorizing him to engage in the manufacture or sale of oleomargarine, which shall not contain any color or ingredient that causes it to resemble yellow butter, for which said license the applicant shall pay: if a manufacturer, one thousand dollars (\$1,000) annually; if a wholesaler, or distributor, the sum of one hundred dollars (\$100) annually. The said license fees shall be collected by the State Department of Agriculture, and covered into the State Treasury as a part of the Agricultural Fund. This license shall not authorize the manufacture, sale, exposing for sale, or having in possession with intent to sell any oleomargarine made or colored so as to look like yellow butter as herein provided. For the purpose of this act oleomargarine or articles or products in semblance of butter shall be deemed to look like and be in semblance of or in imitation of butter or a shade of butter when it has a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, as measured in terms of Lovibond tintometer scale, or its equivalent.

"All licenses shall expire on the thirty-first day of December of each year.

"*Display of signs.* It shall be unlawful for any person or any agent thereof to sell or offer, or expose for sale, or have in possession with intent to sell, any oleomargarine not in imitation of yellow butter which is not marked and distinguished by the word OLEOMARGARINE on the outside of each tub, package, or parcel. A placard with the words, OLEOMARGARINE SERVED HERE, printed in Gothic letters one inch long, shall be displayed in some conspicuous place in each dining-room, cafe, hotel, or wherever oleomargarine is served to the public as a food.

"*Enforcement.* This act shall be administered and enforced by the State Department of Agriculture, which shall prescribe necessary rules and regulations therefor. Any license which is issued under the terms and conditions prescribed in section three of this act can be revoked by the State Commissioner of Agriculture upon the submission to him of evidence that this act has been violated by the holder of such license.

"*Penalties.* Every person, firm, or corporation, and every officer, agent, servant, or employee of such person, firm, or corporation who violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than three months, or both, at the discretion of the court."

1931, c. 229.

4774. Now reads: "The doors, windows and other openings of the syrup room used for the preparation of soft drinks by bottling establishments shall be fitted with wire screens of not coarser than fourteen mesh wire gauze and the door or doors shall be fitted with self-closing screens."

1931, c. 167.

4815. 1929, c. 194, s. 6. Add to list of noxious weed seeds the words "wild oats."

1931, c. 65, s. 1.

4831. 1929, c. 194, s. 19. After the words "Clover, Alsike" insert the words "Clover, Japan or Lespedeza . . . 95 . . . 80." After the word "Cotton" insert the words "Soy Bean . . . 100 . . . 90."

1931, c. 65, s. 2.

Strike out the proviso at the end of section 2 and insert the following: "After the requirements of section 18 of the State Pure Seed Law shall have been fully complied with, no farmer residing in North Carolina shall be required to procure a State seed license to sell seeds raised on his own farm."

1931, c. 65, s. 2.

4940(a). 1927, c. 209, s. 2. Said section 2 repealed and the following inserted in lieu thereof: "The State Fair provided for in this act shall be managed, operated and conducted by the Board of Agriculture. To that end, said Board of Agriculture shall at its first meeting after the ratification of this act, take over said State Fair, together with all the lands, buildings, machinery, etc., located thereon, now belonging to said State Fair and shall hold and conduct said State Fair with all the authority and power conferred upon the former board of directors, and it shall make such rules and regulations as it may deem necessary for the holding and conducting of said Fair, and/or lease said Fair properties so as to provide a State Fair."

1931, c. 360, s. 3.

CHAPTER LXXXVIII BOARDS OF CHARITIES

5006. Add at the end of sub-section 4: "Provided, that the term 'maternity homes' hereinbefore in this sub-section shall be construed to include institutions or homes maintained not only for the purpose of receiving pregnant women for care previous to, during and following delivery, but institutions or lying-in homes wherein pregnant women are received for care previous to and following delivery, the said delivery taking place in a hospital to which this statute does not apply."

1931, c. 175.

5016. Vol. III. Change the period after the word "welfare" in line 16 to a semi-colon and insert the following: "Provided, that in case of a tie vote in the election of a County Superintendent of Public Welfare for the County of Iredell, the matter shall be referred for decision to the Clerk of the Superior Court of Iredell County."

1931, c. 423.

CHAPTER XC CHILD WELFARE

5031-5038. Powers contained in sections transferred to Division of Standards and Inspection.

1931, c. 312, s. 12.

5031. Repealed and Division of Standards and Inspection created.

1931, c. 312, s. 14.

5033. As amended by c. 251, 1927. Change colon in line nine to a comma, strike out the proviso and insert the following: "or oiling or cleaning hazardous machinery in motion, or running elevators, or around exposed electric wires, or in the manufacture, preparation or use of any poisonous substance or gas, or explosive: *Provided*, the Child Welfare Commission (now the Division of Standards and Inspection) shall designate and define hazardous machinery in the purview of this act: *Provided, further*, no machinery except such as is specifically mentioned herein shall be deemed hazardous until so determined by the Child Welfare Commission: *Provided, further*, the eight-hour day limitation in this act shall not apply to any boy between fourteen and sixteen years of age who is the sole support of himself and/or a widowed mother to be determined by the local County Child Welfare Officer, and for whom the agent of the State Child Welfare Commission states that an eight-hour day job can not be found."

1931, c. 391.

Add at end of section: "Nothing in this section shall be construed to prevent male persons under sixteen years of age and over fourteen years of age from distributing newspapers, magazines and periodicals on fixed routes: *Provided*, that such persons shall not be employed, nor suffered to work after eight o'clock P. M. and before five o'clock A. M., and the hours of work and the hours in school do not exceed eight hours in any one day, and: *Provided, further*, that such persons shall not be suffered to work, nor be employed more than four hours per day, nor more than twenty-four hours per week."

1931, c. 125.

5067. Following 5067 add new article: "Article 3-A. *Control over juvenile delinquents coming into the State.* No person, agency, association, institution or corporation shall bring or send into the State any child for the purpose of placing him out or procuring his adoption without first obtaining the consent of the State Board of Charities and Public Welfare. Such person, agency, association or corporation shall conform to the rules of the board and shall enter into a written agreement with the board to remove such child from the State, when requested so to do by the said board; that it will place the child under written contract approved by the board; that the person with whom the child is placed shall be responsible for his proper care and training; that the board and its agents shall have the same right of visitation and supervision of the child and the home in which it is placed as in the case of a child placed out by the board and its agents. Before the child shall be brought or sent into the State for the purpose of placing him in a home, the person, agency, association, institution or corporation so bringing or sending such child shall first notify the State board of its intention, shall certify to the State board that such child does not have a contagious or incurable

disease, is not deformed, feeble-minded or of vicious character, and shall obtain from the State board a certificate stating such home is, in the opinion of the said board, a suitable home for the child. The person, agency, association, institution or corporation bringing or sending the child into the State shall report once a year or when the child is placed in another home, or at such other times as the board may direct as to the location and well-being of the child, so long as he shall remain within the State and until he shall have reached the age of eighteen years or shall have been legally adopted.

"No child shall be brought into the State under section one of this act until a justifiable and continuous bond not to exceed one thousand dollars (\$1,000) be furnished and maintained by the said person, agency, association, institution or corporation for the proper fulfillment of the requirements of section one. Said bond shall be made in favor of and filed with the State Board of Charities and Public Welfare with the premium prepaid by the said person, agency, association, institution or corporation desiring to place such child in the State.

"No child shall be taken or sent out of the State for the purpose of placing him in a home, otherwise than by a parent, grandparent or guardian, unless the person, agency, association, institution or corporation so taking or sending him shall give the State Board of Charities and Public Welfare notice of its intention and furnish such information as the board may require. Such person, agency, association, institution or corporation shall place the child under written contract, approved by the board, that the person with whom the child is placed shall be responsible for his proper care and training and thereafter shall report to the board once a year and at such other times as the board may direct as to the location and well-being of such child until he shall have reached the age of eighteen years, or shall have been legally adopted.

"No person, agency, association, institution or corporation shall accept for the purpose of placing him out or procuring his adoption any child either legitimate or illegitimate born in this State of parents who have not established legal settlement in the State without first obtaining the written consent of the State Board of Charities and Public Welfare.

"No juvenile delinquent or dependent, coming from without the State of North Carolina, can acquire a settlement in this State, so as to constitute him or her a charge of the State, unless such juvenile delinquent or dependent has been continuously in the State of North Carolina for a period of three years.

"No individual, agency, voluntary association or corporation seeking to establish and carry on any kind of organization for the purpose of caring for dependent, neglected, abandoned, destitute, orphaned or delinquent children or children separated temporarily from their parents in this State shall be permitted to organize and carry on such work without first having secured a written permit from the State Board of Charities and Public Welfare. Said board shall issue such permit recommending such organization only after the said board shall have made due investigation of the purpose, character, nature, methods and assets of the proposed organization.

"Every person acting for himself or for an agency who violates any of the provisions of this act or who shall intentionally make any false statements to the State Board of Charities and Public Welfare shall, upon conviction thereof, be guilty of a misdemeanor and punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

"The term 'board' wherever used in this act shall be construed to mean the State Board of Charities and Public Welfare. The terms 'he' and 'his' and 'him' wherever used in this act shall apply to a female as well as a male child."

1931, c. 226.

CHAPTER XCI

COMMERCE AND BUSINESS IN STATE

5126(a). Add new section: "5126(a). The proprietor of each and every warehouse shall pay for all tobacco sold in said warehouse either in cash or by giving to the seller a check payable to his order in his full name or in his surname and initials and it shall be unlawful to use any other method."

1931, c. 101.

CHAPTER XCII

CONFEDERATE HOMES AND PENSIONS

5168(c). Vol. III. Add at end of section: "It shall be the duty of the Register of Deeds and the Clerk of the Court of each county in the State of North Carolina to check the roll of pensioners furnished the Clerks of the Court of the various counties of the State, with the record of vital statistics in the office of the Register of Deeds, within ten days after receipt of the pension roll, which roll shall be furnished by the State Auditor on or before October fifteenth and April fifteenth of each year, and certify under their hands and seals of their office, the names of all deceased pensioners with dates of their death, whose names appear upon the pension roll, to the State Auditor; the State Auditor at the time of furnishing the pension rolls to the Register of Deeds and Clerk of the Superior Court of each county, as herein provided, shall also furnish copies of said pension rolls to the State Registrar of Vital Statistics, who shall cause the same to be checked against the vital statistics records in his office and certify to the State Auditor the names of all persons appearing on said pension rolls, which the records in his office show to be deceased, together with the dates of their death."

1931, c. 144.

CHAPTER XCIII

CO-OPERATIVE ORGANIZATIONS

5170. Add at end: "The clerk shall not issue or record the same until duly authorized to do so by the Insurance Commissioner as hereinafter provided.

"(a) Upon receipt of a copy of the certificate of incorporation of the proposed association, the Insurance Commissioner shall at once examine into all the facts connected with the formation of such proposed corporation, including its location and proposed stockholders, and if

it appears that such corporation, if formed, will be lawfully entitled to commence the business for which it is organized, the Insurance Commissioner shall so certify to the Clerk of Court in the county in which organized, who shall thereupon issue and record such certificate of incorporation. But the Insurance Commissioner may refuse to so certify, if upon examination and investigation he has reason to believe that the proposed corporation is formed for any purpose other than a mutual building and loan business, or that the character, general fitness, and responsibility of the persons proposed as stockholders in such corporation are not such as to command the confidence of the community in which said building and loan association is proposed to be located; or that the public convenience and advantage will not be promoted by its establishment; or that the name of the proposed corporation is likely to mislead the public as to its character or purpose; or if the proposed name is the same as one already adopted or appropriated by an existing association in the same county, or so similar thereto as to be likely to mislead the public.

"(b) Upon receipt of such certificate from the Insurance Commissioner, the Clerk of Court shall, if said certificate of incorporation be in accordance with law, issue and cause same to be recorded in the records of his office as hereinabove provided."

1931, c. 73.

5176. Add at end: "*Provided*, that not more than one per cent of the par value of each share of stock subscribed may be paid as commissions or other remuneration for the soliciting and sale of stock."

1931, c. 75.

5177. Now reads: "Every building and loan association doing business in this State shall be authorized to issue as many series or classes and kinds of shares and at such stated periods as may be provided for in its charter or by-laws: *Provided*, the dividends on paid-up stock shall be less than the association is earning and may have the right to share in the dividends between the rate paid and the earned per centum. Every association shall at all times have on hand, investments in obligations of the United States Government or the Government of the State of North Carolina, or on deposit in such bank or banks as may have been approved by a majority of the entire Board of Directors, immediately available funds in an amount equal to at least five per centum of the aggregate amount of paid-up stock outstanding, as shown by the books of the association. When the aggregate of investments or funds in hand or on deposit as herein provided, fall below the amount required under this section, the association shall make no new loans until the required amount has been accumulated: *Provided*, this act shall not take effect until January first, nineteen hundred and thirty-two."

1931, c. 107.

5180. Now reads: "All shareholders shall occupy the same relative position as to debts, losses, and profits of the association: *Provided*, that this shall not prevent the payment of a lesser rate of dividend on paid-up stock as provided in section 5177 of the Consolidated Statutes, but this provision shall not prevent any association from receiving dues in advance, allowing such a rate of interest for the anticipated payments of dues as may be agreed upon by the directors. No series or class of stock shall be paid off until fully matured: *Provided*, that this act shall not prevent the cashing in of any stock before maturity."

1931, c. 109.

5242. As amended by c. 179, 1925. Add at the end: "*Provided*, that the membership of agricultural organizations incorporated under this sub-chapter shall consist of producers of agricultural products handled by such organizations or by organizations owned and controlled by such producers."

1931, c. 447, s. 1.

5248. Change the period at the end to a comma and add: "And that no corporation organized under this sub-chapter for doing business in this State shall be permitted to deal in the products of non-members to an amount greater in value than such as are handled by it for members."

1931, c. 447, s. 2.

CHAPTER XCIV

DRAINAGE

5280. In line 14, strike out the period after the word "clerk"; strike out the last sentence of section and add the following: "and the said report or reports shall, when filed in the office of the Clerk of the Superior Court, be a lien upon each tract of land embraced in said report or reports to the extent of the proportionate part of the costs stipulated in said report or reports as a charge against same, and shall have the effect and force of a judgment thereon, and that such judgments shall be subject to execution and collection as in cases of other judgments."

1931, c. 227, s. 1.

Add at end of section as above amended: "5280(a). The freeholders, commissioners or jurors, appointed in any application or proceeding filed under section five thousand two hundred and eighty, or any other section of chapter ninety-four, article one, of the Consolidated Statutes of North Carolina, are authorized and empowered during the establishment of and providing for the construction, maintenance and payment thereof, of such ditch, canal or drain, to make other and further assessments for the costs of establishment, construction and expense, when it shall be determined by the Clerk of the Court that the provisions in the former report for the payment thereof are insufficient, and that such supplementary reports shall be made on the same basis of an equitable and just proportion, as made in the former report, which report or reports shall be filed with the Clerk of the Superior Court and have the same force and effect as the former or original report."

"In case of death, resignation, removal or for any other cause there becomes a vacancy as to the freeholders, commissioners or jurors, appointed to carry out the provisions of the sections contained in this chapter ninety-four, article one, of the Consolidated Statutes, the Clerk of the Superior Court is authorized to fill such vacancy by the appointment of some disinterested freeholder in the county, and that the said person so appointed to fill such vacancy shall qualify before the Clerk of the Superior Court before entering upon his duties: *Provided*, this act does not apply to Duplin County."

1931, c. 227, s. 2.

5361. Strike out all of section after the word "delinquent" in line eight and insert the following: "The sale of lands for failure to pay such assessments shall be made at the courthouse door of the county in which the lands are situated, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon of any date except Sunday or another legal holiday, which may be designated by the Board of Drainage Commissioners. That after any such sale date has been designated by the Board of Drainage Commissioners, if for any necessary cause the sale cannot be made on that date, the sale may be continued from day to day not exceeding four days, or the lands may be re-advertised and sold on any day which the Board of Drainage Commissioners may or shall designate during the same hours and without any order being obtained therefor during the same calendar year. Nothing in this section shall be construed to require any order from any court for any sale or resale held hereunder."

"This amendment shall have the same force and effect from and after its ratification as if it had been ratified and enacted prior to the first day of January, one thousand nine hundred and twenty-nine, and no sale of drainage lands held under the provisions of section five thousand three hundred sixty-one shall be deemed or declared void by reason of the fact that they may not have been held on the day specified in section five thousand three hundred sixty-one of the Consolidated Statutes prior to this amendment."

1931, c. 273.

CHAPTER XCV

EDUCATION

5410. Vol. III. Board of Education of Wilkes County increased to seven members.

1931, c. 313.

The Board of Education of Avery County decreased from five to three members, thus taking Avery from the list of Counties having five members.

1931, c. 363

5416. Vol. III. In line three strike out the words "remaining members of said county board of education" and insert the words "action of the county executive committee of the political party of the member causing such vacancy."

In line 10 strike out the words "remaining members of the board" and insert the words "county executive committee."

1931, c. 380.

5445. Vol. III. Add at the end: "The County Superintendent in and for Robeson County shall keep in his office a record of schools for the Cherokee Indians of Robeson County, which said record shall disclose the operation of such schools separate and apart from the record of the operation of schools for the other races."

1931, c. 141.

5531 (now 5647, Vol. III). Strike out lines one and two and insert the following: "Upon petition of twenty-five per cent (25%) of the number of registered voters in the election creating said special tax district, said petition to be signed by qualified voters residing in such special tax district."

1931, c. 372, s. 1.

Add at end of section: "*Provided*, this act shall not apply to that part of such tax, if any, in said district as may be necessary to pay the interest on or amortization of any bonded or other indebtedness, incurred in consequence of the voting of said special tax district but to that extent, and to that extent only, shall said special tax district be maintained, and: *Provided*, further, that the provisions of this act shall apply only to the following counties: Alexander, Anson, Beaufort, Buncombe, Carteret, Catawba, Chatham, Chowan, Cleveland, Craven, Currituck, Davidson, Duplin, Franklin, Gates, Greene, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Lenoir, Martin, Mecklenburg, Moore, Nash, Onslow, Pamlico, Pitt, Randolph, Richmond, Rockingham, Transylvania, Vance, Wake, Warren, Wilkes, Robeson."

1931, c. 372, s. 2.

This act amends section 5531 which was repealed by c. 136, 1923, and section 5647, Vol. III, enacted in lieu thereof. See 1923, c. 136, ss. 227, 373.

5619. Vol. III. Add at end of section as amended: "This proviso shall also apply to Chowan County."

1931, c. 67.

5758. Vol. III. Add at end of section: "Mental incapacity shall be an excuse for non-attendance, and is interpreted to mean feeble-mindedness or such nervous disorder as to make it either impossible for such child to profit by instruction given in the school or impracticable for the teacher properly to instruct the normal pupils of the school. In the case of feeble-minded children the teacher shall designate the same in her reports to the County Superintendent of Public Welfare, and it shall be his duty to report all such cases to the State Board of Charities and Public Welfare. Whereupon said Board shall make, or cause to be made, an examination to ascertain the mental incapacity of said child and report the same to the county or city superintendent involved. Upon receipt of said report the local school

authorities are hereby authorized, under such limitations and rules as the State Board of Education may adopt, to exclude said child from the public school when it is ascertained that the child cannot benefit by said instruction and his presence becomes a source of disturbance to the rest of the children. In all such cases in which a child is excluded from school a complete record of the whole transaction shall be filed in the office of the county or city superintendent and kept as a public record."

1931, c. 453.

CHAPTER XCVI

EDUCATIONAL INSTITUTIONS

5800. Add at end of section: "Any child in North Carolina who is drawing compensation from the United States Government, on account of the death or disability of its father, which death or disability was incurred while a member of the armed forces of the United States Government during the World War, and who has not attained the age of twenty-one years, may be entitled to and granted a scholarship of free tuition in any of the State's educational institutions."

1931, c. 370.

This act applies to all State educational institutions as well as to the University.

5802. Now reads: "5802. No person, firm or corporation shall apply for or receive from the Board of Aldermen through the City Manager or other representative of the Town of Chapel Hill, any license or authorization to set up, maintain or keep in Chapel Hill, or within five miles thereof, any public billiard table or other public table of any kind, by whatever name called, at which games of chance or skill may be played, without first obtaining written permission therefor from the President of the University of North Carolina. Nor shall any person, firm or corporation apply for or receive a license from the Board of Aldermen of the Town of Chapel Hill through the City Manager or other representative to keep, maintain or operate within the Town of Chapel Hill or within five miles of the boundaries thereof, any house, place or establishment wherein ten pin alleys, bowling alleys, or other games of chance or skill shall be operated or conducted without first obtaining written permission therefor from the President of the University of North Carolina."

1931, c. 41, s. 1.

5803. Now reads: "5803. No person, firm or corporation shall apply for or obtain from the Board of Aldermen of the Town of Chapel Hill through the City Manager or other representative, any license or permit to exhibit within the Town of Chapel Hill or within five miles thereof any theatrical, sleight of hand, equestrian performance, or any dramatic recitation, or any rope or wire dancing, natural or artificial curiosities, or any concert, serenade or performance in music, singing or dancing, without first securing a written permission for said performance from the President of the University of North Carolina. A copy of the President's permission shall be filed with the City Manager or other duly authorized agent of the Board of Aldermen of the Town of Chapel Hill at the time said license or permit is applied for in all cases covered by this act."

1931, c. 41, s. 2.

CHAPTER XCVII

ELECTIONS

6004. Now reads: "Section 1. For the purpose of selecting representatives to the Congress of the United States, the State of North Carolina shall be divided into eleven (11) districts as follows:

First District: Camden, Chowan, Currituck, Beaufort, Dare, Gates, Hertford, Perquimans, Pitt, Pasquotank, Hyde, Tyrrell, Martin, and Washington counties.

Second District: Bertie, Edgecombe, Greene, Halifax, Lenoir, Northampton, Warren, and Wilson counties.

Third District: Craven, Duplin, Jones, Onslow, Pender, Pamlico, Sampson, Wayne, and Cartaret counties.

Fourth District: Chatham, Franklin, Johnston, Nash, Randolph, Wake, and Vance counties.

Fifth District: Caswell, Forsyth, Granville, Person, Rockingham, Stokes, and Surry counties.

Sixth District: Alamance, Durham, Guilford, and Orange counties.

Seventh District: Bladen, Brunswick, Columbus, Cumberland, Harnett, New Hanover, and Robeson counties.

Eighth District: Anson, Davie, Davidson, Hoke, Lee, Montgomery, Moore, Richmond, Scotland, Union, Wilkes, and Yadkin counties.

Ninth District: Ashe, Alleghany, Alexander, Cabarrus, Caldwell, Iredell, Rowan, Stanley, and Watauga counties.

Tenth District: Avery, Burke, Catawba, Cleveland, Gaston, Lincoln, Madison, Mecklenburg, Mitchell, and Yancey counties.

Eleventh District: Buncombe, Clay, Cherokee, Graham, Henderson, Haywood, Jackson, Macon, McDowell, Polk, Rutherford, Swain, and Transylvania counties."

1931, c. 216.

CHAPTER CI
GEOLOGICAL SURVEY

6124. Add new section: "6124(a). Timber and other products of such State forest lands may be sold, cut and removed under rules and regulations of the Department of Conservation and Development. Said Department shall have authority to establish on these or other State lands under its charge forest nurseries for the growing of trees for planting on such State forest lands and to procure or acquire tree seeds for nursery or forest use. Such planting stock as is not required in the State forests may be sold at not less than cost to landowners within the State for planting purposes, but all such planting shall be done under plans approved by the Department. The Department shall make reasonable rules for the regulation of the use by the public of such and all State forests, State parks, State lakes, game refuges and public shooting grounds under its charge, which regulation, after having been posted in conspicuous places on and adjacent to such State properties and at the court house of the county or counties in which such properties are situated, shall have the force and effect of a law and any violation of such regulations shall constitute a misdemeanor and shall be punishable by a fine of not more than fifty dollars or by imprisonment for not exceeding thirty days."

1931, c. 111.

CHAPTER CVI
INSURANCE

6283. In line nine strike out the words "each alternate month" and insert in lieu thereof the words "May of each year."

1931, c. 74.

6299. Add at end of section: "and that such license, if issued, shall serve the public's interest."

1931, c. 185.

6377. Add at end of section: "But if such corporation be engaged in the business of commercial banking then such license shall be issued by the Commissioner of Banks and all other provisions of this article pertaining to corporations engaged in the business of banking shall apply to such corporation but shall be exercised and enforced by the Commissioner of Banks."

For such license the licensee shall pay to the Banking Commission an annual license fee of two hundred (\$200.00) dollars, which shall be remitted to the State Treasurer for the use of the Commissioner of Banks in the supervision of banks acting in a fiduciary capacity in so far as it may be necessary and the surplus, if any, shall remain in the State Treasury for the use of the general fund of the State."

1931, c. 387.

6382. Now reads: "No stock corporation transacting fidelity or surety business in this State shall expose itself to any loss on any one fidelity or surety risk or hazard in an amount exceeding ten per centum of its capital and surplus, unless it shall be protected in excess of that amount by

(a) Reinsurance in a corporation authorized to transact a fidelity and surety business in this State: *Provided*, that such reinsurance is in such form as to enable the obligee or beneficiary to maintain an action thereon against the company reinsured jointly with such reinsurer and, upon recovering judgment against such reinsured, to have recovery against such reinsurer for payment to the extent in which it may be liable under such reinsurance and in discharge thereof; or

(b) The co-suretyship of such a corporation similarly authorized; or

(c) By deposit with it in pledge or conveyance to it in trust for its protection of property; or

(d) By conveyance or mortgage for its protection; or

(e) In case a suretyship obligation was made on behalf or on account of a fiduciary holding property in a trust capacity, by deposit or other disposition of a portion of the property so held in trust that no future sale, mortgage, pledge or other disposition can be made thereof without the consent of such corporation; except by decree or order of a court of competent jurisdiction;

Provided: (1) That such corporation may execute what are known as transportation or warehousing bonds for United States Internal Revenue taxes to an amount equal to fifty per centum of its capital and surplus; (2) that, when the penalty of the suretyship obligation exceeds the amount of a judgment described therein as appealed from and thereby secured, or exceeds the amount of the subject matter in controversy or of the estate in the hands of the fiduciary for the performance of whose duties it is conditioned, the bond may be executed if the actual amount of the judgment or the subject matter in controversy or estate not subject to supervision or control of the surety is not in excess of such limitation; and (3) that, when the penalty of the suretyship obligation executed for the performance of a contract exceeds the contract price, the latter shall be taken as the basis for estimating the limit of risk within the meaning of this section.

"No such corporation shall, anything to the contrary in this section notwithstanding, execute suretyship obligations guaranteeing the deposits of any single financial institution in an aggregate amount in excess of ten per centum of the capital and surplus of such corporate surety, unless it shall be protected in excess of that amount by credits in accordance with sub-divisions (a), (b), (c) or (d) of this section: *Provided*, nothing in this act shall be construed to make invalid any contract entered into by such corporation with another person, firm, corporation or municipal corporation notwithstanding any provisions of this act.

"Nothing in this act shall affect, modify or qualify the liability of any such Fidelity or Surety Company with respect to any contract of such company in force at the time of the ratification of this act."

1931, c. 285.

6382(a). Add new section: "6382(a). Nothing in this act (section 6382) shall affect, modify or qualify the liability of any such Fidelity or Surety Company with respect to any contract of such company in force at the time of the ratification of this act."
1931, c. 285, s. 1(a).

6414. In line two between the word "insurance" and the word "company" insert a comma, and after the comma insert the words "bonding and, or surety."
1931, c. 287.

6464. Add new section: "6464(a). If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance, or his executors or administrators, shall be entitled to its proceeds and avails against creditors and representatives of the insured and of the person effecting same, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person: *Provided*, that subject to the statute of limitations, the amount of any premiums for said insurance paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy; but the company issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms unless before such payment the company shall have written notice by or in behalf of the creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specifications of the amount claimed."
1931, c. 179.

6465. Add at end: "No insurance company doing business in this State and issuing health and/or accident insurance policies, other than contracts of group insurance or disability and/or accidental death benefits in connection with policies of life insurance, the premium for which is to be collected in weekly, monthly, or other periodical installments by authority of a payroll deduction order executed by the assured and delivered to such insurance company or the assured's employer authorizing the deduction of such premium installments from the assured's salary or wages, shall, during the period for which such policy is issued, declare forfeited or lapsed any such policy hereafter issued or renewed until and unless a written or printed notice of the failure of the employer to remit said premium or installment thereof stating the amount or portion thereof due on such policy and to whom it must be paid, has been duly addressed and mailed to the person who is insured under such policy at least fifteen days before said policy is cancelled or lapsed."
1931, c. 317.

6466(a). (Sec. 1, c. 58, 1925). Add at end of said section 1: "Such group policy may provide that the term 'employees' shall include the officers, managers and employees of subsidiary or affiliated corporations and the individual proprietors, partners and employees of affiliated individuals and firms when the business of such subsidiary or affiliated corporations, firms or individuals is controlled by the common employer through stock ownership, contract or otherwise."
1931, c. 328.

6507. Add new section: "6507(a). No corporation, society or organization now doing business in this State upon a mutual or assessment insurance plan and issuing contracts to its members providing benefits in excess of one hundred (\$100) dollars in the event of death of its members or policyholders shall issue any contract to such members providing for the payment of benefits in merchandise or service to be rendered to such member or beneficiary; but all contracts hereafter issued by any such corporation, society, or organization, shall provide by the terms of its contract for the payment of such benefits only in lawful currency or coin."
1931, c. 71.

6508. Change the semi-colon in line four to a comma and insert the following after the comma: "or, with the consent of the society, any charitable institution maintained by the society."

In line four strike out the word "but" and insert the word "and."
1931, c. 161.

6530. Now reads: "Any fraternal order or fraternal benefit society authorized to do business in this State and operating on the lodge plan may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of one and sixteen years at next birthday, for whose support and maintenance a member of such society is responsible. The society may at its option organize and operate branches for such children and membership in local lodges, and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total benefits payable as above provided shall in no case exceed the following amounts at ages at next birthday at time of death, respectively, as follows: one year, twenty dollars; two years, fifty dollars; three years, seventy-five dollars; four years, one hundred dollars; five years, one hundred twenty-five dollars; six years, one hundred fifty dollars; seven years, two hundred dollars; eight years, two hundred fifty dollars; nine years, three hundred dollars; ten years, four hundred dollars; eleven years, five hundred dollars; twelve years, six hundred dollars; thirteen years, seven hundred dollars; fourteen years, eight hundred dollars; fifteen years, nine hundred dollars; sixteen years, one thousand dollars."
1931, c. 38.

6537. Following this section add a new article: "Article 29. *Regulation of collectors of accounts and detective agencies.* Any person, firm or corporation within the State of North Carolina engaging in the collection of accounts for a percentage consideration of the account collected, or upon any other basis than regular employment, shall, before engaging in such

business within the State of North Carolina, apply to and receive from the Insurance Commissioner, a permit to engage in such business, which permit shall at all times be prominently displayed in the main office of the person, firm or corporation to whom or to which the permit is issued, and the number of said permit shall be printed in bold type upon all letterheads, stationery and forms used by the person, firm or corporation holding such permit.

"The person, firm or corporation desiring to secure a permit as provided herein, shall make application to the Insurance Commissioner upon such form as the Commissioner may provide, and shall submit with such application any and all information which the Commissioner may require to assist him in determining the financial condition, business integrity, method of operation and protection to the public offered by the person, firm or corporation filing the application. All information submitted shall be sworn to by the responsible officer, members of the firm, or individual, as in each case necessary, and the Commissioner shall have the right to require any and all additional information which, in his judgment, might assist him in determining whether or not the applicant is entitled to the permit sought.

"If, for any reason, upon the application made and upon the consideration of the data submitted with the application or items, the Commissioner shall be of the opinion that permit should not be issued to the applicant, he shall decline the same, giving notice of his action to the applicant. Following notice, the applicant shall have ten days within which to submit additional information in support of his application, and if, upon further hearing upon the application and additional information, the Commissioner shall again decline to issue the permit, the applicant shall have the right to appeal to the Superior Court and his appeal shall stand for hearing in the Superior Court of the County of Wake, and the evidence, data and information submitted to the Commissioner shall constitute the record in the Superior Court, and the same shall be heard by the Judge of the Superior Court to determine whether or not the Commissioner had evidence sufficient to justify his action.

"If, upon the application and information submitted as hereinbefore required, the Commissioner shall issue a permit to the applicant, giving the name of the applicant, his place of business and the nature and kind of business the applicant is engaged in, and shall assign to the permit a serial number for each year, beginning with July first, one thousand nine hundred thirty-one, upon the payment by the applicant of the sum of fifty dollars as the application fee, which fifty dollars the Commissioner, in his discretion, may require upon the filing of the application, and which fee, if such application is not granted, the Commissioner shall retain five dollars of the application fee so paid and return the remainder thereof to the applicant. The five dollars so retained upon applications not granted, and the full fee of fifty dollars upon all applications granted, shall be used in paying the expenses incurred in connection with the consideration of such applications and the issuance of such permits. Each permit issued shall be for the period of one year, beginning with July first and ending with June thirtieth, of the following year.

"If the Commissioner shall have issued any permit to any person, firm or corporation as herein provided, and shall have information that the holder of the permit is not conducting his business in a business-like way, he shall notify the holder of the permit of a date for a hearing, which notice shall name a time and place for the hearing, and at which hearing any and all evidence as to the conduct of the business may be heard by the Commissioner. If, upon the hearing of the evidence, the Commissioner shall be of the opinion that the applicant is not entitled to the permit, the Commissioner shall cancel said permit, after which time it shall be unlawful for the person, firm or corporation whose permit is cancelled to engage in the business covered by the permit. If the permit be cancelled upon hearing, either the holder of the permit or the complaining party shall have the right to appeal as hereinbefore provided in case the application is denied, and the record of the hearing before the Commissioner shall be the record in the Superior Court upon which the judge shall determine whether or not the Commissioner had sufficient evidence upon which to base his action.

"The Commissioner shall have the right to make any rules or regulations necessary to enforce the provisions of this act and may approve schedules of fees and methods of collecting the same, or make any other rule or regulation necessary to secure the proper conduct of the business referred to in this act.

"Any person, firm or corporation who shall engage in the business herein referred to without first receiving a permit, or who shall fail to secure a renewal of his permit upon the expiration of the license year, or shall engage in the business herein referred to after the permit has been cancelled as herein provided, or who shall fail or refuse to furnish the information required of the Commissioner, or who shall fail to observe the rules and regulations made by the Commissioner pursuant to this act, shall, upon conviction, be guilty of a misdemeanor punishable in the discretion of the court.

"All fees collected hereunder shall be credited to the account of the Insurance Commissioner for the specific purpose of providing the personnel, equipment and supplies necessary to enforce this act, but the director of the Budget shall have the right to budget the revenues received in accordance with the requirements of the Commissioner for the purposes herein required, and at the end of the fiscal year, if any sum whatever shall remain to the credit of the Commissioner, derived from the sources herein referred to, the same shall revert to the General Treasury of the State to be appropriated as other funds.

"Nothing in this act shall be construed to apply to legally licensed attorneys at law engaged in the practice of the profession of law unless, however, such attorney shall engage in the business herein referred to under a trade name or as a corporation, nor shall this act apply or be construed to apply to any person, firm or corporation whose business of collecting accounts is limited to the collection of such accounts against debtors having residence in the county of the residence of such person or firm, or the principal office of such corporation so engaged in such business."

1931, c. 217.

CHAPTER CVIII LABOR REGULATIONS

6554. Now reads: "Not more than fifty-five hours shall constitute a week's work for women over sixteen in any factory, manufacturing establishment, mill, of the State, and no woman over sixteen employed in any of the above-named places shall be worked exceeding eleven hours in any one day or over fifty-five hours in any one week. Any employer of

labor violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding fifty dollars or imprisoned not exceeding thirty days, and each day's work exceeding the said hours shall constitute a separate offense: *Provided, further*, that this act shall not apply to those employed in the operation of seasonal industries, in their process of conditioning and of preserving perishable or semi-perishable commodities, or to those engaged in agricultural work."

1931, c. 289.

CHAPTER CX

MEDICINE; ALLIED OCCUPATIONS

6658. Vol. III. Amended so as to provide that certain persons who entered the military service of the United States and who were at that time qualified to stand examination to practice pharmacy be permitted to stand said examination within twenty-four months from March 16, 1931, provided such applicant shall have been practicing pharmacy for not less than five years since leaving said military service.

1931, c. 121.

6686. Add a new article after section 6686: "Article 3(a). In the following four sections, unless the context otherwise requires, the words 'hypnotic drug' include:

"Sulphonmethane (sulphonal).

"Sulphonethylmethane (trional).

"Diethyl sulphonedrethylmethane (tetronal).

"Diethyl barbituric acid (barbital), or any of the foregoing by whatsoever trade name or designation; or any compound, preparation, mixture or solution thereof; or any salt or derivative thereof or of barbituric acid possessing hypnotic acid possessing hypnotic properties or effects.

"Chloral hydrate or any mixture or solution thereof containing twenty grains or more thereof to the fluid ounce.

"No person other than a licensed pharmacist, a duly licensed physician, doctor of dental surgery, or doctor of veterinary surgery shall sell or offer to sell any hypnotic drug to consumers or have such drug in his possession with intent to sell or give away to consumers.

"No hypnotic drug as defined in this act may be sold in quantities exceeding twelve therapeutic doses, except to persons known to be suffering with epilepsy: *Provided, however*, that nothing in this act shall apply to prescriptions of duly licensed physicians, doctors of dental surgery, or doctors of veterinary surgery.

"Any person dispensing any hypnotic drug coming under the provisions of this act, other than upon prescription, shall record in a book kept for the purpose the name of the article sold, the quantity delivered, the date of delivery, the name and address of the purchaser and the name of the dispenser, which record shall at all times be open to the inspection of the proper officer of the law.

"Nothing in this act shall be construed to limit the sale of hypnotic drugs to nor to the dispensing of hypnotic drugs in the course of their professional practice by duly licensed physicians, doctors of dental surgery or doctors of veterinary surgery lawfully practicing their profession in this State, or to registered retail or wholesale pharmacists, or to hospitals and other institutions for the treatment of defective, afflicted, sick and injured persons.

"Any person who shall violate any provision of this act shall be deemed guilty of a misdemeanor and upon conviction therefor for the first offense shall be fined not more than twenty-five dollars, and upon conviction of the second offense shall be fined not more than one hundred dollars."

1931, c. 162.

See c. 87, 1925, for following 4 amendments.

6729. As amended by section 2, 1925, strike out the words "the board of nurse examiners of North Carolina" in lines five and six of said section 2 and insert the words "the North Carolina board of nurse examiners."

1931, c. 56, s. 1(a).

6729(a). Section 3, 1925. Strike out second sentence of section 3 and insert the following: "The joint committee on standardization shall advise with the board of nurse examiners herein created in the adoption of regulations governing the education of nurses, and shall have power to establish standards and provide minimum requirements for the conduct of schools of nursing of which applicants for examination for nurses' license under this chapter must be graduates before taking such examination."

1931, c. 56, s. 1(b).

6731. Section 6, 1925. In lines 11 and 12 strike out the words "received at least one year of high school education or its equivalent" and insert the words "graduated from high school or has equivalent credits."

1931, c. 56, s. 1(c).

Strike out last paragraph and insert the following: "Applicants shall have graduated from a school of nursing connected with a general hospital giving a three years' course of practical and theoretical instruction, which said hospital meets the minimum requirements and standards for the conduct of schools of nursing which may have been set up and established by the joint committee on standardization provided for in section 3 of this act. Such schools of nursing may give credit for college work on the three years' course to the extent and as may be approved by the board of nurse examiners, such credits not to total more than one year for any one person."

1931, c. 56, s. 1(d).

6735. Section 10, 1925. Strike out all of section and insert the following: "This act shall not be construed to affect or apply to the nursing of the sick by friends or members of the family."

1931, c. 56, s. 1(e).

6760. Vol. III. Add new paragraph. Amendment provides that any person practicing veterinary medicine as a profession at the same place continuously prior to or since 1913, shall be given a certificate allowing him to continue said practice. Application must be filed within five days after adjournment of 1931 General Assembly.

Applies to Chatham County only.
1931, c. 45.

Add new paragraph. Amendment provides that any person practicing veterinary medicine in U. S. Army 23 months during World War shall be given a certificate to continue such practice. Application must be filed within ten days from the adjournment of the 1931 General Assembly. Applies to Caswell County only.
1931, c. 361.

6773. Add two new sections: "6773(a). On or before the first day of July of each and every year every chiroprapist engaged in the practice of chiroprapy in this State shall transmit to the Secretary-Treasurer of the said North Carolina Board of Chiroprapy Eaminers his signature and post office address, the date and year of his or her certificate, together with a fee to be set by the Board of Chiroprapy Examiners not to exceed ten (\$10.00) dollars, and receive therefor a renewal certificate. That it shall be the duty of the Secretary of said Board of Chiroprapy Examiners to send a copy of this act to every chiroprapist engaged in practicing chiroprapy in this State to his last address known by said Secretary. It shall also be the duty of said Board of Chiroprapy Examiners to publish an abstract thereof in two or more newspapers published in this State. That any license or certificate granted by said Board under or by virtue of this act, shall automatically be cancelled and annulled if the holder thereof fails to secure the renewal herein provided for within a period of thirty days after the thirty-first day of July of each year, and such delinquent chiroprapist shall pay a penalty of five dollars for reinstatement: *Provided*, that any legal practicing chiroprapist in this State, who retires from practice or is absent from the State, if licensee shall furnish affidavit of having been out of the State or had retired from practicing, may reinstate himself by mere payment of fee or fees of lapsed year or years, such period not exceeding five years. "6773(b). Upon payment of the fees prescribed in the above section, by or before July first, nineteen hundred and thirty-one, by any person who has heretofore practiced chiroprapy in the State of North Carolina, for a period of five successive years regularly, it shall be the duty of the State Board of Chiroprapy Examiners to issue to said person a license which shall grant to such person all the rights and privileges of chiroprapists now engaged in practicing chiroprapy."

1931, c. 191.

6777. Strike out all of line three including the word "be" in line four and insert the words "all of whom shall be licensed and."

1931, c. 174.

CHAPTER CXVIII PUBLIC HEALTH

7048. Now reads: "The North Carolina Board of Health shall consist of nine members, four of which members shall be elected by the Medical Society of the State of North Carolina and five of which members shall be appointed by the Governor."

1931, c. 177, s. 1.

7049. Now reads: "The terms of all members of the present Board of Health shall expire on April first, one thousand nine hundred and thirty-one, or as soon thereafter as their successors have been appointed and elected in the manner provided for herein and shall have duly qualified. The Medical Society of the State of North Carolina shall at its next annual meeting elect two members to serve for two years and two members to serve for four years, and the Governor, on or before May first, one thousand nine hundred thirty-one, shall appoint five members, three of such members to serve for two years and two of such members to serve for four years. At the expiration of the terms of the members so elected and appointed their successors shall be elected or appointed for a term of four years and until their successors have been duly elected or appointed and have qualified. The Medical Society of the State of North Carolina shall have the right to remove any member elected by it for cause, and the Governor shall have the right to remove any member appointed by him for cause. Vacancies on said Board among the membership elected by the Medical Society of the State of North Carolina shall be filled by the Executive Committee of said Medical Society until the next meeting of the said Medical Society, when the said Medical Society shall fill the vacancy for the unexpired term. Vacancies on said Board among the membership appointed by the Governor shall be filled by the Governor for the unexpired term."

1931, c. 177, s. 2.

7053. In lines five and six strike out the words "the Secretary-Treasurer shall be elected from the registered physicians of the State and shall serve six years" and insert the following: "The Secretary-Treasurer shall be a registered physician of the State and he shall be elected by the Board, subject to the approval of the Governor, and he shall serve for four years and until his successor has been elected and qualified. The Board shall have the right to remove the Secretary-Treasurer from office for cause."

1931, c. 177, s. 3.

7064. Now reads: "The chairman of the board of county commissioners, the mayor of the county town, and in county towns where there is no mayor the Clerk of the Superior Court, and the county superintendent of schools shall meet together on the first Monday in April, one thousand nine hundred and thirty-one, and thereafter on the first Monday of January in the off years of the calendar, and elect from the regularly registered physicians and dentists of the county two physicians and one dentist, who, with themselves, shall constitute the county board of health. The chairman of the board of county commissioners shall be the chairman of the county board of health, and the presence of three members at any

regular or called meeting shall constitute a quorum. The term of office of members of the county board of health shall terminate on the first Monday in January in the odd years of the calendar."

1931, c. 149.

7111. Add at end of section: "Upon application to the Bureau of Vital Statistics made by the Adjutant or any officer of a local post of the American Legion, it shall be the duty of the Bureau of Vital Statistics to furnish immediately to such applicant the vital statistical records and necessary copies thereof, made up in the necessary forms for the use of such applicant, without charge.

"This act shall apply only to ex-soldiers of the World War and members of their families and/or beneficiaries under Government insurance or adjusted compensation certificate issued to such ex-soldier."

1931, c. 318.

7251(cc). Section 3, c. 191, 1925. In line eight strike out the words and figures "ten dollars (\$10)" and insert the words and figures "twenty dollars (\$20)."

Add at the end: "State institutions engaged in manufacture of bedding shall not be required to pay a fee for the tags."

All monies collected shall be paid into the General Fund of the State.

1931, c. 225.

CHAPTER CXX

PUBLIC PRINTING

7285-7308. All powers of printing commission as set forth in Article 1, chapter 120, transferred to the Division of Purchase and Contract.

1931, c. 312, s. 15.

7286. Repealed.

1931, c. 312, s. 14.

7309. Now reads: "*Department of Labor established.* A Department of Labor is hereby created and established. The duties of said Department shall be exercised and discharged under the supervision and direction of a commissioner, to be known as the Commissioner of Labor."

1931, c. 312, s. 1.

7310. Now reads: "*Election of Commissioner; term; vacancy.* The Commissioner of Labor shall be elected by the people in the same manner as is provided for the election of the Secretary of State. His term of office shall be four years, and he shall receive a salary of four thousand five hundred dollars per annum. Any vacancy in the office shall be filled by the Governor, until the next general election. The office of the Department of Labor shall be kept in the City of Raleigh and shall be provided for as are other public offices of the State."

1931, c. 312, s. 2.

7312(a)-7312(m). Vol. III. Powers and duties of these sections and amendments thereto vested in and imposed upon the Commissioner of Labor.

1931, c. 312, s. 5.

CHAPTER CXXI

REFORMATORIES

7346. Strike out the first eight lines ending with the word "women" in line eight and insert the following: "The governing body of the City, at its annual election of officers for the City in May, shall elect from the members of such governing body, two men as directors for such institution, and the board of county commissioners shall elect, at its meeting in May, the same year the governing body of the City elects, two members of the board of commissioners as directors for such institution. The Mayor of the City and the chairman of the board of commissioners of said county shall be *ex-officio* members of said board with equal right to vote, and the said six directors shall have entire management and control of the reformatory for fallen women, and the chairman of the board of county commissioners shall be purchasing agent for said institution. Such directors shall serve for the term of one year, and until their successors are elected and qualified: *Provided, however,* that in the event any of such directors elected by the governing body of the City shall cease to be a member of such governing body, or in the event any of such directors elected by the board of county commissioners shall cease to be a member of such board of county commissioners, the term of office of such director shall expire and the governing body of the City or the board of county commissioners, as the case may be, at the first regular or special meeting thereafter, shall elect the successors of such directors whose terms shall have expired."

1931, c. 253.

7362(i). Vol. III. Repealed.

1931, c. 213.

CHAPTER CXXVI

STATE DEPARTMENTS

7534. Following this section add a new article as follows: "Article 7(a). No contract for construction or repair work involving the expenditure of public money, the estimated cost of which amounts to or exceeds \$1,000.00 (one thousand dollars) except in cases of special emergency involving the health or safety of the people or their property, shall be awarded by any board or governing body of any institution of the State Government unless proposals for same shall have been invited by advertisement in at least one newspaper having

general daily circulation in the State of North Carolina, publication to be not less than ten days before the time specified for the opening of said proposals. Such advertisement shall state the time and place where plans and specifications of the proposed work may be had and the time and place for the opening of proposals in answer to such advertisement, and shall reserve to said board or governing body the right to reject any and all such proposals. All such proposals shall be opened in public, shall be recorded on the minutes of the board or governing body, and the award, if any be made, shall be made to the lowest responsible bidder. Each proposal shall be accompanied by a deposit with the board or governing body of cash or a certified check on some bank or trust company organized under the laws of this State in an amount equal to not less than two per centum of the proposals; said deposit to be retained in the event of failure on the part of the successful bidder to execute contract within ten days after the award, or to give satisfactory security as required herein. All contracts required herein shall be executed in writing and the contractor shall furnish bond in some surety company authorized to do business in this State for the full amount of the contract for the faithful performance of the terms thereof. No such contract shall be altered except by written agreement of the contractor, the sureties on his bond and the board or governing body of the institution.

"No contract for construction or repair work upon any permanent improvement of any institution of the State shall be divided for the purpose of evading any provisions of this act.

"No contract covered by the provisions of this act for construction or repair work on any permanent improvement of any institution of the State shall be awarded by any board or governing body of such institution unless proposals shall have been made by at least three reputable contractors where the estimated cost thereof shall not exceed \$5,000.00 (five thousand dollars) and by at least five reputable contractors where the estimated cost thereof shall exceed \$5,000.00 (five thousand dollars).

"The provisions of this act shall not apply to any construction by or for the State Prison or county prison projects.

"All laws and clauses of laws in conflict with the provisions of this act insofar as they conflict herewith are hereby repealed: *Provided*, that nothing herein shall be considered as in any way affecting or repealing any of the provisions of the Executive Budget Act, chapter one hundred, Public Laws one thousand nine hundred and twenty-nine, the provisions of which act shall be continued in full force and effect."

1931, c. 291.

CHAPTER CXXVIII

STATE LANDS

7575. Repeal amendment (c. 210, 1929) as to price to be paid by those entering State lands in Cherokee County.

1931, c. 119.

CHAPTER CXXIX

STATE OFFICERS

7667. (c. 36, 1927). Add at end of Section 2 the words "Guilford College."

1931, c. 113, s. 1.

7675. Add new sub-section: "16. In all cases where blank forms of licenses, tags or certificates are prepared and delivered to any State department or agency for the use of any State department or agency in issuing such license, tag or certificate upon the payment of any fees prescribed by law, a sample of the same, together with a list of the numbers of all such license forms, tags or certificates, and the type of business or privilege to which they relate, shall be delivered to the State Auditor; that on or before the tenth day of each calendar month each State department or agency issuing and delivering licenses, tags or certificates shall make report to the State Auditor of all such licenses, tags or certificates delivered during the preceding calendar month, showing the numbers thereof, the business or privilege for which issued, and the person or persons or corporations to whom such licenses, tags or certificates have been so issued. If there be any of such blank license forms, tags or certificates spoiled or in any way damaged so as to be incapable of being used, all such spoiled license forms, tags, or certificates shall be transmitted to the State Auditor and by him securely kept.

"It shall be the duty of the State Auditor, as soon as practicable after the tenth day of each calendar month and not later than the thirtieth of such month, to thoroughly examine and check the reports so received, together with all such spoiled forms, tags or certificates, and the remaining such blank license forms, tags or certificates then in the hands of the department or agency to which they have theretofore been delivered.

"If any discrepancy be found by the State Auditor upon such checking and examination, he shall at once report the same to the Director of the Budget."

1931, c. 398.

CHAPTER CXXX

STATE PRISON

7699. As amended by section 1, chapter 163, 1925. Insert a period after the word "members" in line three; strike out remainder of section and insert the following: "The chairman and two of said directors shall be appointed for a term of four years, two of said directors shall be appointed for a term of three years, and two of said directors shall be appointed for a term of two years which terms shall begin at their appointment by the Governor."

1931, c. 178, s. 1.

7699(a). Add new section: "7699(a). The Governor shall appoint an Executive Committee composed of the chairman and two members of the board of directors. The said Executive Committee shall be vested with all authority of the said board of directors when said board is not in session."

1931, c. 178, s. 1, paragraph 2.

7699(b). Add new section: "7699(b). The Board of Directors shall meet at the State Prison, near Raleigh, semi-annually: *Provided, however,* that the Governor or the chairman may call a meeting of the Board at such other times as may be deemed advisable. The Executive Committee shall meet monthly or upon call of the chairman."

1931, c. 178, s. 1, paragraph 3.

CHAPTER CXXXI

TAXATION

7987. Add at end of section as amended by chapter 306, 1929, the following: "*Provided,* that where more than one tract or lot of land is returned, charged or assessed against a taxpayer in any county, municipality, or other sub-division of the State that the sheriff or other tax collecting officer of any such county, municipality or other sub-division of the State, at any time prior to the commencement of the advertisement of such property for sale for taxes prior to the sale of said property for taxes and upon the full payment of the taxes charged and assessed against any particular tract or lot of land and the ratable share of the tax charged and assessed against the personal property of the party in whose name the land is charged and assessed, shall release said tract or lot of land from said tax lien. However, the tax collector or sheriff shall require the owner, upon his application for a release, to pay all of his personal property tax charged on the return.

"*Provided, further,* that in all cases where tracts of land have been sub-divided into lots, but have been returned, charged and assessed as a whole tract, that the sheriff or other tax collecting officer, together with the auditor, county accountant or other agency performing the duties of such auditor or accountant, shall, upon application of any person interested, make an investigation and determine the pro rata part of said assessment justly applicable to any lot or lots, and shall thereupon, upon the payment of the tax, fairly ascertained to be due against such lot or lots, together with a ratable share of the tax charged against the personal property of the party in whose name the land is charged and assessed at any time prior to the commencement of the advertisement of such property for sale for taxes prior to the sale of said property for taxes, release the said lot from the tax lien. However, the tax collector or sheriff shall require the owner, upon his application for a release, to pay all of his personal property tax charged on the return.

"*And further provided,* that in all cases where any sheriff or other tax collecting officer of any county, municipality or other sub-division of the State has collected from any taxpayer or other interested party the pro rata tax charged and assessed against any particular tract or lot of land and has thereupon released said tract or lot of land from the lien of the other taxes charged and assessed against the person in whose name said tract or lot of land so released was charged, the act of said sheriff or other tax collecting officer in releasing said land from the lien of the remaining taxes charged and assessed against the person in whose name the land was charged and assessed is hereby approved, confirmed and validated."

1931, c. 83, s. 1.

Add new section: "7987(a). Where any sheriff or tax collector has sold, or shall sell, one or more pieces or parcels of real estate for taxes of any person, firm or corporation for the taxes on said property and other property listed by said taxpayer on the same return, and such taxes shall have been or may be paid by another than the person listing the property for taxation, either as owner, or other interested person, firm or corporation, and such person, firm or corporation so paying tax has taken or shall take an assignment of the tax sales certificates and the lien of the taxes thereby represented, either to himself or to a trustee, for the benefit of such person, firm or corporation, then in that event the person, firm or corporation so paying said taxes shall be subrogated to the lien of the governmental agency levying the tax for which said real estate has been or may be sold, and such person, firm or corporation shall have a cause of action for contribution from the other pieces or parcels of real estate listed on the return upon which the tax was levied for such proportion of the taxes so paid as the tax value of such pieces or parcels of real estate bear to the whole tax value of the property embraced in said return: *Provided,* that nothing herein contained shall be construed to abridge or shorten the time in which a taxpayer whose land has been, or may hereafter be, sold for taxes, has to redeem said land from said sale."

1931, c. 83.

Add new section: "7987(b). Where more than one piece or parcel of real estate has been listed for taxes and the sheriff or tax collector charged with the collection of the tax levied by the governmental agency to whom the return is or has been made shall have advertised or sold one or more pieces or parcels of real estate so returned for such taxes and such property has been bid in at the tax sale by the governmental agency levying the tax, such governmental agency is hereby authorized and directed to issue a receipt for taxes to any owner, or other interested person or in property who shall pay the proportionate amount of tax for which said property has been advertised, or sold, plus cost and penalties due by the property which such payer owns or has an interest in, the amount being determined by the proportion which the tax value of the property upon which the tax is paid bears to the whole tax value of the property embraced in said return: *Provided, however,* that if less than all of the property listed has been advertised or sold, then and in that event nothing herein shall be construed to permit the release of any piece(s) or parcel(s) of real estate already sold for taxes or whose advertisement for sale for taxes shall have been commenced by the sheriff or tax collector charged with the collection of such taxes, until the whole of the taxes for which said piece(s) or parcel(s) of real estate has been advertised or sold shall have been paid."

1931, c. 83.

8005(a). Vol. III. Now reads: "All sheriffs and tax collectors who, by virtue of their office, have had the tax lists for the purpose of collecting taxes of their respective counties, towns and school districts, in their hands for the years one thousand nine hundred and twenty-one, one thousand nine hundred and twenty-two, one thousand nine hundred and twenty-three, one thousand nine hundred and twenty-four, one thousand nine hundred and twenty-five, one thousand nine hundred and twenty-six, one thousand nine hundred and twenty-seven, one thousand nine hundred and twenty-eight, and one thousand nine hundred and twenty-nine, and in case of death or default in collection, their personal representatives, bondsmen, or any agent, or agents that they may designate, are authorized and empowered to collect arrears of taxes for each of the years aforesaid, under such rules and regulations as are now, or may hereafter be provided for the collection of taxes."

1931, c. 197, s. 1.

8005(b). Vol. III. Now reads: "No executor or guardian shall be compelled to pay any tax under the provisions of this act after he shall have made final settlement: *Provided*, that this act shall authorize a sale of any land for taxes which has been conveyed prior to January first, one thousand nine hundred and twenty-seven, to a purchaser for value, and without actual notice of non-payment of such taxes: *Provided, further*, that all lands sold for taxes, under the provisions of this act, shall be sold subject to encumbrances by mortgages or deeds in trust, executed prior to January first, one thousand nine hundred and twenty-seven."

1931, c. 197, s. 2.

8005(c). Vol. III. Now reads: "Nothing in the two preceding sections shall be construed to relieve sheriffs, tax collectors, their representatives or bondsmen, from the liability imposed by law to pay the State, county, town any other taxes at the time and place required by law."

1931, c. 197, s. 3.

8005(d). Vol. III. Now reads: "The authority given in sections 8005(a) and 8005(b) shall cease and determine on the first day of January, one thousand nine hundred and thirty-three."

1931, c. 197, s. 3.

8014. In line three after the word "county" insert the words "or in any city or town nearest the property advertised."

1931, c. 126.

8017. Now reads: "It shall be the duty of the sheriff or tax collector of a county or municipality, immediately after the sale of land for taxes to prepare a book containing a list of the names of all persons whose land has been sold for taxes showing the names of each delinquent taxpayer, the amount of taxes, penalty, cost of sale, the total amount of the certificate of sale and the name of the purchaser. If the county or municipality become the purchaser, under the provisions of law, he shall record the fact in such book. The sheriff or tax collector shall certify such book and file the same in the office of register of deeds and said register of deeds shall keep and preserve said book. Said book and record of certificates of sale shall be sufficient notice to lien holders and other parties interested in the property sold for taxes. Any delinquent taxpayer, lien holder or party interested in said property may, upon presentation to the register of deeds of the certificates of sale marked paid and signed by the proper collecting officer, cause the register of deeds, upon payment of a fee of ten cents, to make an entry on said record giving the amount paid, the description of the property, whether in whole or a part thereof, and by whom said taxes were paid. Where the word 'sheriff' appears in this act, it shall mean 'the sheriff or tax collector of each county,' or, 'the tax collector of each city or town.'"

1931, c. 260, s. 7.

8037. Now reads: "Every holder of a sheriff's certificate of sale of real estate for taxes shall have the right of lien against all real estate described in the certificate as in case of mortgage, and shall be subrogated to the rights of the State and of the county, or other municipal corporation, for the taxes for which such real estate was sold, and shall be entitled to a judgment for the sale of such real estate for the satisfaction of whatever sums may be due to him upon such certificate of sale and for any other amount expended by him upon any other such certificate of sale of such real estate, or for taxes or assessments paid which were a lien upon such real estate, whether paid prior or subsequent to the acquisition of such certificate of sale. Such relief shall be afforded only in an action in the nature of an action to foreclose a mortgage, which action must be commenced as herein provided. Such action shall be governed in all respects as near as may be, by the rules governing actions to foreclose a mortgage. The person in whose name said real estate has been listed for taxation, together with the wife or husband, if married, shall be made defendants in said action and shall be served with process as in civil actions.

"Notice, by posting at the courthouse door, shall be given to all other persons claiming any interest in the subject matter of the action to appear, present and defend their claims. Said notice shall describe the nature of the action and shall require such persons to set up their claims in six months from the date of the final appearance of the general advertisement of such notice as required herein, otherwise they shall be forever barred and foreclosed of any and all interest or claims in or to the property or the proceeds received from the sale thereof. General advertisement shall be made of such notice by publication, which advertisement shall appear once a week for four successive weeks and shall contain substantially the following:

**FORECLOSURE SUITS FOR TAXES
ACTIONS INSTITUTED DURING THE MONTH OF**

....., 19.....
..... Advertisement.

(First, second, third, or final)

Names of Plaintiffs. Names of Defendants. Township.
Year Taxes Delinquent.

The cost of the general advertisement shall be pro rated and taxed against each defendant. Upon the return of the summons executed upon the taxpayer, his/her wife or husband, the court shall proceed to judgment without awaiting the six months allowed to other claimants. In case the action is prosecuted by the State, county or other municipality, no prosecuting bond shall be required to be deposited or paid any officer; costs shall be taxed against the defendant or defendants as in other cases and after and when collected shall be paid to the officers entitled to receive the same: *Provided*, the fees allowed any officer shall not exceed one-half such fees allowed in other civil actions. The deed which shall be made to the purchaser as herein-after provided for, shall convey the real estate to the purchaser in fee simple free from any and all claims or interest of the taxpayer, his/her wife or husband or of any other person.

"In the complaint filed in such action each certificate of sale held by the plaintiff and each sum expended by him for taxes or assessments on such real estate, or claimed by him as a lien on same, shall be set out separately. The description set out in the tax sale certificate shall be sufficient to support the lien and certificate of sale and the court shall require a description which is in fact and in law sufficient description of the real estate to be set out in the published notice, if any, as above provided, and in the interlocutory judgment of sale and in the final judgment of confirmation and to the end that such description may be obtained, the resident or presiding judge may order a survey of said real estate, if in his opinion a survey is necessary.

"Every county, or political sub-division of the State which is now, or may hereafter become, the holder by purchase at sheriff's sale of land for taxes of any certificate of sale, shall bring action to foreclose the same within eighteen months from the date of the certificate.

"The certificate of sale shall bear interest at the rate of 10 per centum per annum on the entire amount of taxes and sheriff's cost, for a period of twelve months from the date of sale and thereafter shall bear interest at the rate of eight per centum per annum until paid, or until the final judgment of confirmation is rendered, but every holder of a certificate other than county, municipal corporation or other political sub-division, shall, in case said action is not instituted within eighteen months from the date of the first certificate of sale, only receive after the expiration of eighteen months on all amounts expended on, or in connection with, said purchase interest at the rate of 6 per centum per annum. In any action to foreclose the cost shall be taxed as in other civil actions and shall include an allowance for the commissioner appointed to make the sale, which shall not be more than 5 per centum of the amount at which the land is sold and one reasonable attorney's fee for plaintiff: *Provided, however*, the board of commissioners of any county or the governing body of any municipality shall employ an attorney to conduct such actions, and shall fix his compensation, which shall be paid out of the general fund, and shall cause to be taxed in the bill of costs a fee which in no event shall exceed ten dollars (\$10) in each suit for foreclosure for the purpose of reimbursing the general fund for the compensation of said attorney; and: *Provided, further*, no process tax shall be taxed for the use of the State against the defendant in any action to foreclose a certificate of sale.

"All certificates of sale evidencing purchases by counties shall immediately, upon being allowed as a credit in the settlement with the sheriff of the county, be delivered to the county accountant, county auditor, or other officer, specifically designated by the board of county commissioners, or other governing board of the county, except sheriff or tax collecting officer, and it shall be the duty of the officer, or such officer designated, to collect the same. In making the collection he shall collect interest at the rate provided in this chapter, which shall not be remitted either by said officer or the governing board of the county, or other political sub-division. If, at the end of sixteen months from the date of the certificate of sale, full collection of the tax, interest and cost has not been made, such officer shall proceed to foreclose the certificate of sale under the provisions of this article, and said action shall be instituted within twenty-four months from the date of the certificate of sale. Such officer shall call upon the county attorney to conduct the action to foreclose the certificate of sale and it shall be his duty to prosecute said action as vigorously as may be necessary to obtain early final action. After the institution of the action by counties or municipalities, the taxpayer shall have no right of redemption except upon the payment of the full tax, interest and other sums, and all cost and allowances: *Provided*, that the institution of the action to foreclose shall not affect the rate of interest to be collected and the governing board of the county, or municipality, shall have no authority to remit or reduce the interest due under the certificate of sale, or otherwise interfere with the action to foreclose.

"Where the certificate of sale is taken by a municipality, all the provisions of this section shall apply to the foreclosure of such certificate of sale and to its collection and the governing authorities of the municipalities may place such certificates of sale in the hands of one of its officers for collection and he shall have the same authority to collect them as the officer herein provided for counties.

"In any action to foreclose the certificate of sale under the provisions of this act when it has been properly instituted and all party defendants have been properly served and the complaint is duly verified and no answer is filed by some or all of said defendants, the Clerk of the Superior Court in which such action is instituted may give a judgment *pro confesso* in which all the essential facts alleged in the complaint are recited against those defendants not answering. If none of the defendants, so properly served, file any answer, said Clerk may proceed and make the orders provided for in this section without transferring the cause to the Superior Court in term time, and the same jurisdiction in such cases to make sure orders as that conferred upon the resident Judge of the Superior Court or the Judge riding the district, is conferred upon the Clerk. Where any of the parties, however, have answered and the answer creates any issue as to those parties, the subsequent proceedings shall be provided as in substitute section eight thousand and thirty-seven of chapter two hundred and twenty-one of the Public Laws of one thousand nine hundred and twenty-seven, except that the judgment *pro confesso* shall bind the parties who have not answered, and the facts so found shall be taken by the Judge of the Superior Court as binding upon those particular defendants.

"Any person, corporation or firm, or the board of commissioners of any county or the governing body of any municipality holding a certificate of sale on which an action to foreclose has not been brought but according to the terms of chapter two hundred twenty-one of the

Public Laws of one thousand nine hundred and twenty-seven as amended should have been brought, shall have until the first day of December, one thousand nine hundred thirty-one, to institute such action. This section and extension shall include all certificates executed for the sales prior to and including sales for the tax levy of the year one thousand nine hundred twenty-eight. The board of commissioners or the governing body of any county or municipality holding any certificate upon which action has been brought, but upon which final judgment of confirmation has not been rendered, may, by recorded resolution, cause such action to be held in abeyance until the first day of December, one thousand nine hundred thirty-one, and the court shall abide by such resolution: *Provided, however*, that where any action to foreclose has heretofore been instituted or brought for the collection of any tax certificate, prior to the ratification of this act, under the then existing laws, nothing herein shall prevent or prohibit the continuance and suing to completion any of said suit or suits under the laws existing at the time of institution of said action.

"When a certificate of sale is held by a county and also by a city or town for the same tract or parcel of real property, both of such governmental units may be joined as parties plaintiff in the same foreclosure action, and in such event the proceeds derived from a foreclosure sale of such real property, or so much thereof as may be necessary to satisfy the claims, shall be apportioned by the court to the parties according to their respective liens.

"This act shall apply to all taxes and tax certificates up to and including the nineteen and twenty-nine levy but subject to pending litigation and contracts with attorneys as above set out in section eight and subject to section seven of chapter two hundred four, laws of one thousand nine hundred twenty-nine.

"Nothing in this act shall affect pending actions brought by any holder of a tax certificate other than a county, city or town."

1931, cc. 260, 324, 389. (See also 1927, c. 221; 1929, cc. 204, 334.)

8037(b). Insert a new section as follows: "8037(b). Between the first day of December and the first day of May after taxes are due, any lienholder or interested party may file a list with the register of deeds containing the names of taxpayers on whose property a lien or interest is held, showing such information with respect to each of such taxpayers as is hereinafter required to be recorded by said register of deeds. Such list shall be accompanied by a fee of ten cents for each name contained therein, and may be filed with the register of deeds by registered mail, with a return receipt requested therefor. It shall thereupon be the duty of the register of deeds to record such list in a book designated as 'Record of Taxes for Mortgagees,' and such record shall contain with respect to each taxpayer included in such list as filed the following:

"The date when the list was filed; the name of the taxpayer; the name and address of the lienholder or other interested party; the book and page in his office wherein such lien or liens are recorded; and if said property is subject to taxes of a municipality, the name of such municipality.

"The register of deeds shall keep a cross-index to such 'Records of Taxes for Mortgagees,' and in any action to foreclose a certificate of sale, all lienholders or other interested parties having filed a list as provided herein, and if such list contains the name of the defendant in the action, shall be made parties to said action, and the cost of the service of the summons shall be taxed against the lienholder. The rights of such lienholders shall not be affected unless made parties to the action."

1931, c. 260, s. 6.

CHAPTER CXXXIII

WEIGHTS AND MEASURES

8060. Vol. III. After the line "potatoes, sweet, shall be" insert the words "dry weight shall be 47 pounds per bushel; after the word "sweet" insert the word "green."

1931, c. 76.

8064(b). (C. 261, 1927.) Line five, sec. 2, between the word "act" and the word "the" insert the words "the rules and codes of specifications and tolerances as adopted by the National Conference of Weights and Measures and recommended by the United States Bureau of Standards are hereby adopted; however,"

1931, c. 150, s. 1.

8064(c). (C. 261, 1927.) Repealed.

1931, c. 150, s. 1.

8064(e). (C. 261, s. 5, 1927.) Now reads: "Section 5. All salaries and necessary expenses shall be provided as now provided for the other departments of government."

1931, c. 150, s. 1.

Chapter 200, 1929, being amendments to weights and measures act, repealed.

1931, c. 150, s. 2.

8081(a). Vol. III. Add at end of section: "In Jackson County packages must contain twenty-four pounds, forty-eight pounds, or ninety-six pounds, and that all multiples thereof shall be in like proportion."

1931, c. 122.

Repealed as to the counties of Clay, Lenoir, Transylvania and Swain.

1931, c. 299.

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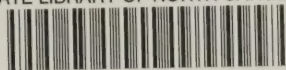
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